Royal Commission on the Police 1962

FINAL REPORT

Presented to Parliament by Command of Her Majesty
May 1962

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WHEREAS We have deemed it expedient that a Commission should forthwith issue to review the constitutional position of the police throughout Great Britain, the arrangements for their control and administration and, in particular, to consider:

(1) the constitution and functions of local police authorities; (2) the status and accountability of members of police forces including chief officers of police; (3) the relationship of the police with the public and the means of ensuring that complaints by the public against the police are effectively dealt with; and (4) the broad principles which should govern the remuneration of the constable, having regard to the nature and extent of police duties and responsibilities and the need to attract and retain an adequate number of recruits with the proper qualifications;

NOW KNOW YE that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed and do by these Presents authorize and appoint you the said Sir Henry Urmston Willink (Chairman); Charles John, Baron Geddes of Epsom; Sir Edward Ian Claud Jacob; Sir George Wilfred Turner; Arthur Lehman Goodhart; Sir James Jackson Robertson; Owen Temple Temple-Morris; Kathleen Ryder Runton; John Gardiner Sumner Hobson; John Charles Burman; Walter Ian Reid Fraser; Charles Leslie Hale; Hector Alastair Hetherington; James Wright Macfarlane and Margaret Alison Richardson to be Our Commissioners for the purposes of the said inquiry:

AND for the better effecting the purposes of this Our Commission, We do by these Presents give and grant unto you, or any five or more of you, full power to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission; to call for information in writing; and also to call for, have access to and examine all such books, documents, registers and records as may afford you the fullest information on the subject and to inquire of and concerning the premises by all other lawful ways and means whatsoever:

AND We do by these Presents authorize and empower you, or any of you, to visit and personally inspect such places as you may deem it expedient so to inspect for the more effectual carrying out of the purposes aforesaid:

AND We do by these Presents will and ordain that this Our Commission shall continue in full force and virtue, and that you, Our said Commissioners, or any five or more of you may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment:

AND We do further ordain that you, or any five or more of you, have liberty to report your proceedings under this Our Commission from time to time if you shall judge it expedient so to do:

AND Our further will and pleasure is that you do, with as little delay as possible, report to Us your opinion upon the matters herein submitted for your consideration.

Given at Our Court at Saint James's the twenty-fifth day of January, 1960; In the Eighth Year of Our Reign.

By Her Majesty's Command.

R. A. BUTLER.

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FINAL REPORT

To the Queen's Most Excellent Majesty

May it Please Your Majesty,

We, the undersigned Commissioners, having been appointed "to review the constitutional position of the police throughout Great Britain, the arrangements for their control and administration and, in particular, to consider:—

(1) the constitution and functions of local police authorities;

(2) the status and accountability of members of police forces, including chief officers of police;

(3) the relationship of the police with the public and the means of ensuring that complaints by the public against the police are effectively dealt with; and

(4) the broad principles which should govern the remuneration of the constable, having regard to the nature and extent of police duties and responsibilities and the need to attract and retain an adequate number of recruits with the proper qualifications";

Humbly Submit To Your Majesty The Following Final Report

CHAPTER I

PROCEDURE OF THE COMMISSION

1. In November, 1960, we submitted an interim report to Your Majesty dealing with the broad principles which should govern the remuneration of the constable.(1) We have since heard evidence relating to the remainder of our terms of reference. In all, we have held a further 53 meetings, at 32 of which we heard oral evidence in public or in private. Our meetings for hearing evidence have been held in London, with the exception of three meetings at which we heard evidence from Scottish witnesses in Edinburgh.

2. A list of all persons who appeared before us is contained in Appendix I. We wish to thank them for their help, and in particular we are grateful

(1) Cmnd. 1222.

to four former Home Secretaries who were good enough to give us the benefit of their experience in administering police affairs at the Home Office (Lord Morrison of Lambeth, Mr. J. Chuter Ede, Lord Kilmuir and Lord Tenby), to Professor J. D. B. Mitchell of Edinburgh University and Professor E. C. S. Wade of Cambridge University, who gave us valuable help on the constitutional position of the police, and to Sir Edward Fellowes, at that time Clerk of the House of Commons, who explained to us the rules and practices of that House as regards Ministers' accountability to Parliament for police matters.

3. In the preparation of our report we have borne in mind a large number of letters from members of the public who commented on various aspects of relations between the police and the public. Some of these letters contained allegations against particular police officers, and the writers regarded the Commission as a means of securing redress where earlier attempts to do so had failed. We explained to these correspondents that we could not investigate particular cases of this kind in detail. To have attempted such a task would have been beyond our resources ; nor, without power to hear evidence on oath, would it have been profitable. Many of the witnesses who appeared before us offered evidence on the general subject of relations between the police and the public ; and in addition, with the consent of the Treasury, we asked the Government Social Survey, a division of the Central Office of Information, to carry out on our behalf a survey of the attitude of the public towards the police and of the attitude of the police towards the public.(2) We comment on the findings of this survey in Chapter VIII, and we wish to place on record the help given in its preparation by Mr. L. Moss and Miss R. Morton-Williams of the Government Social Survey.

4. At an early stage in our inquiry we were invited by the Tyne Improvement Commissioners to review the position of the River Tyne Police Force, which differs from ordinary police forces in that no Exchequer grant is paid towards its cost. Besides the River Tyne Police there are separate police forces operating in the Port of London and several other ports: there are also specialised constabularies associated with the British Transport Commission, the Service Departments, the Ministry of Aviation and the Atomic Energy Authority. The members of these forces are sworn as constables. Taken together they constitute a large body of police, and their responsibility for the protection of life and property is wide. The arrangements for their control and administration, and their relationship with the ordinary police, are clearly matters of importance not only to the organisations by which they are employed but to the public as a whole. We have not, however, felt able to examine these matters, as they would have involved us in very detailed inquiries which would have delayed our work and diverted us from our main task.

5. We were asked by some witnesses, notably by "Justice", the British Section of the International Commission of Jurists, to interpret our terms of reference widely enough to bring under review the methods employed by the police in obtaining statements from suspected persons and the

(2) The report on the survey is published as Appendix IV to the Minutes of Evidence.

code, known as the Judges' Rules, by which the courts in England and Wales seek to regulate these activities of the police. It was submitted to us that our examination of relations between the police and the public would be incomplete were we to fail to take account of all the circumstances which are likely to exacerbate relations and give rise to complaints. Following discussion between the Home Secretary, the Lord Chief Justice and our Chairman, however, the Home Secretary announced in Parliament on 16th March, 1961, that the Lord Chief Justice had agreed that Your Majesty's judges should review the scope and operation of the Judges' Rules.[3] Consequently we do not deal with this subject in our report.

6. In the course of hearing the evidence on which our interim report was based we visited 27 police forces throughout Great Britain, the Scottish Police College and several police training centres. In connection with our final report we have made a further 19 visits to police forces and, in addition, we visited the Police College of England and Wales. In all we have made a total of 54 visits to police forces and establishments, which are set out in Appendix II. In our visits we have enjoyed opportunities of frank discussion with the chairmen and members of police authorities as well as with chief constables and other senior police officers. We have also met editors of local newspapers and others who influence public opinion, and discussed with them relations between the police and the public. We should like to record our thanks to all who have made our visits enjoyable as well as valuable.

7. This report deals with a wide range of subjects. In addition to the conclusions and recommendations which we summarise in Chapter X it contains many expressions of opinion on controversial matters. It is not to be expected that a body composed of fourteen members would achieve an absolute identity of view on each of these matters, or that each of us would subscribe in equal measure to every opinion expressed.

8. We wish to record the excellence of the services given throughout our inquiry, not least in the preparation of our Reports, by our Secretary, Mr. T. A. Critchley, of the Home Office. His work has been greatly admired and highly appreciated by us all.

Our Assistant Secretary, Mr. D. G. Mackay, of the Scottish Home Department, gave most willing support and assistance to our Secretary and indeed to all of us. The whole of the ancillary staff earned our warm gratitude.

From the beginning to the end of our inquiry the high quality and excellent spirit of our staff were of great assistance.

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[3] Parliamentary Debates, House of Commons, 16th March, 1961, c. 145.

CHAPTER II

THE SCOPE OF THE REPORT

9. Our appointment by Your Majesty was preceded by several unrelated incidents, each of which touched an important aspect of police activities and engendered misgivings about the state of the police. The effect was cumulative, and disquiet was aggravated by the inability of Members of the House of Commons to raise questions concerning the police outside the Metropolitan area. The impression that all was not well was disseminated by the press. Thus criticism was increasingly directed at a public service vital to the nation's well-being, and Parliament was impotent to intervene effectively in the matter.

10. Prominent among the incidents which attracted public notice were the following. In 1956, disciplinary action was taken against the then Chief Constable of Cardiganshire following complaints that his force was not being properly administered; and the Cardiganshire Constabulary was subsequently amalgamated with that of Carmarthenshire. In the following year criminal proceedings were undertaken against the then Chief Constable of Brighton and other senior officers of that force. The Chief Constable was acquitted but subsequently dismissed from the force, and two senior police officers were found guilty on charges of corruption and sentenced to imprisonment. Shortly afterwards the then Chief Constable of Worcester was convicted of fraud and sentenced to imprisonment. Towards the end of 1957, allegations were made that a boy had been assaulted by two policemen in Thurso, and that no effective action had been taken to investigate the truth of the complaint. Following Parliamentary debates, a tribunal of inquiry was appointed under the Tribunals of Inquiry (Evidence) Act, 1921, which found that the boy had been provocative, but that one of the policemen had been guilty of an unjustifiable assault on him.(1) In July, 1959, trouble arose in Nottingham between the Watch Committee and the Chief Constable. The Watch Committee asked the Chief Constable to report on police inquiries which concerned a member of the Nottingham City Council; the Chief Constable declined to submit a report, and as a result was suspended from duty by the Watch Committee. The Home Secretary intervened in this dispute and the Chief Constable was subsequently reinstated. Later in the same year, in November, 1959, the House of Commons debated a Motion(2) censuring the Home Secretary for his action in making £300 of public money available to settle an action brought against a constable of the Metropolitan force on grounds of alleged assault. As in the Thurso case, the criticism was made in the course of this debate that the methods of dealing with complaints by members of the public against the police were not effective. It was on this occasion that the Home Secretary announced to Parliament the intention of Your

(1) The allegation of assault on John Waters. H.M.S.O. April 1959 (Cmnd. 718).
(2) 613 H.C. Deb. 5s. c. 1239–1303.

Majesty's Government to make provision for some form of independent review of current police problems.

11. These incidents cover a wide range, but three general inferences were drawn from them: it was suggested by many that the police were not subject to adequate accountability; that their constitutional position in the state was ill-defined; and that the method of dealing with complaints against them was ineffective and not always fair to the complainant. We deal with all these criticisms in this report.

12. Partly, no doubt, on account of these incidents, but more probably on the basis of conjecture, the press fostered the impression that relations between the police and the public were bad. This idea quickly gained ground, and many of the witnesses who appeared before us, both representatives of the police and of the public, took its truth for granted. Later in this report we give reasons for a firm conclusion that relations between the police and the public are, in general, very good, and that there is no reason to suppose that, at all events in recent years, they have been otherwise. However, the mere fact that relations were so widely assumed to be bad no doubt gave added urgency to the need for an independent review of the state of the police.

13. We need refer here only briefly to the other cause of our appointment, namely, the inadequacy of police pay to attract and maintain sufficient manpower to enable the police to cope with their heavy and growing responsibilities, as reflected in the criminal statistics and in the pressing problem of road traffic. We dealt with this matter in our interim report, and here we record our satisfaction with the prompt action taken by Your Majesty's Ministers to improve police pay to the level which we recommended. There is no doubt that this prompt acceptance of the recommended scale did much to improve the morale of the police; and it has already had a valuable effect on recruitment, and a still greater effect on the reduction of wastage. We regret, however, that the formula by which we arrived at our recommendations was not accepted by Your Majesty's Government, for we are seriously concerned that, unless police pay is in future settled by means of this or another formula equally appropriate to the police service, a situation such as we described in our interim report may well recur.

14. In our interim report we stated that our recommendations were based on a large body of evidence and that we should not expect them to be materially affected by anything we said later. This expectation has been largely borne out and, apart from passages in Chapter VII about recruitment and manpower, this report deals only with matters covered by the remainder of our terms of reference.

15. In our approach to them we have throughout tried to be practical and realistic. We have taken account of history and of traditions only so far as they have contemporary relevance. There is no advantage in casting aside valuable traditions; but it would be wrong to maintain traditional ways of thought and administrative patterns which impede the most effective deployment of police resources or the establishment of a proper system of control over the police. We make this point at the outset because the police service, like other disciplined bodies, appears to us to be susceptible

to the influence of out-moded thinking. Tradition quite rightly plays an important part in building up morale and *esprit de corps* but there comes a point at which it does more harm than good. Clearly it must not be allowed to hamper the development of a modern police service matched to the requirements of the second half of the twentieth century.

16. We discuss in the next chapter the way in which the police system, which today comprises no fewer than 158(3) separate local police forces, grew up empirically out of a series of attempts to reconcile conflicting ideas, and to calm the real or imagined fears of men who cherished personal liberty above all else. The outcome is a tribute to the early Victorians' political sagacity and genius for compromise in constitutional matters, but not to their organising ability. This is no criticism of our forebears, for police problems were then, as they had been for centuries, exclusively local. Furthermore, during the first half of the nineteenth century, when the modern police system was being created, a large part of government was local government. The Poor Law, hospitals, prisons, roads and canals, for example, were locally administered and, even in the Army, regiments could be privately raised and officered. Consequently the decision to create a large number of police forces under some form of local supervision introduced no new constitutional principle. It was entirely consistent with the spirit of the age and appropriate enough at a time when communications were primitive. Our task now is to consider how far the thinking that lay behind these ideas is valid today; and in approaching this task our minds have been affected by two general considerations which tend, however, to point in opposite directions.

17. On the one hand it is obvious to us, as it was to most of the witnesses who appeared before us, that the present system, whatever may be said of its origins and vagueness, on the whole works well and provides the country with an effective police service, thought by many people to be the best in the world. For many years wise and able people, both in central and local government and in the police service itself, have done a great deal to adapt the police system to modern requirements. It is reasonable to argue, therefore, that the onus must lie on those who seek radical changes in the system to show that they are necessary.

18. On the other hand it is equally obvious that, varied as were the reasons which lay behind the creation and early development of our police system, the quest for an organisation which would best promote operational efficiency in preserving law and order, in preventing and detecting crime and in handling road traffic, has not, at all events until modern times, been dominant. If it had been it is improbable that we should still find so many separate police forces in this country. The fact of the matter is that the structure of the police system today, and its legal basis, echo not only the requirements of policing a century ago, but also the fears and prejudices, as well as the political wisdom, of the Victorian age. However successfully therefore this system has been adapted, there is no excuse for shirking some fundamental re-thinking about the purpose of the police and how this purpose can best be served in our own generation.

(3) In Great Britain. There are 125 police forces in England and Wales and 33 in Scotland.

19. Our approach, as we have indicated, is pragmatic. After reviewing the modern functions of the police we have sought, in framing our recommendations, to secure three objectives:—

(i) A system of control over the police, and a basic organisation which, while enabling them to perform their duties impartially, will achieve the maximum efficiency and the best use of manpower.

(ii) Adequate means within this system of bringing the police to account, and so of keeping a constitutionally proper check upon mistakes and errors of judgment.

(iii) Arrangements for ensuring that complaints against the police by the public are effectively dealt with.

20. The present police system, with its partially obsolete legal basis, does not in our view adequately secure the first two of these objectives; and there is at present a measure of dissatisfaction with regard to the third. We have therefore considered whether this system is capable of being adapted quickly enough to meet the urgent needs of the time, or whether an entirely different system, such as a single police service under the central control of the Government, is required.

21. This is a matter of great practical as well as constitutional importance, to which we have given the most careful and anxious consideration. In our interim report we expressed concern—which we believe to be shared by the vast majority of Your Majesty's subjects—about the present state of crime in this country. Our terms of reference do not invite us to enquire into detailed questions concerning the day-to-day operations of the police, and we have not therefore sought technical evidence relating to police methods. Nevertheless, it has been our duty to consider whether the police are at present hampered in their fight against crime by the way in which they are organised.

22. If there had been evidence that a system based on a series of local forces was itself in some measure to blame for the inability of the police in the post-war years to halt the rise in crime; that the system was constitutionally improper; or that it was likely to fail to meet any foreseeable contingencies during the next few decades, it would have been our duty to propose to Your Majesty a new system for the policing of this country. We have received no such evidence. We have therefore reached the conclusion that the objectives set out in paragraph 19 can be secured without any fundamental disturbance of the present system. But the purpose of the changes which we recommend will be apparent: it is to bring the police under more effective control by making them more fully accountable, while securing that they are no longer hampered in carrying out their tasks by the remnants of a system designed many years ago in different conditions for different purposes. The direction of the changes we recommend is equally evident: it is to recognise clearly the responsibility of the central government for the efficiency of the police throughout Great Britain, and consequently to invest Your Majesty's Ministers with additional powers in regard to them. In proposing these changes, however, we have sought to preserve so far as possible the local affiliations and loyalties of the police, and to recognise the valuable part which local citizens can play in enhancing the standing of their police force and in

promoting its well-being; and we attach importance to the principle that the rate-payer, through his elected representatives, should have a voice in the scale and cost of the policing of the community in which he lives.

23. Thus the recommendations contained in this report are based on a continuance of the idea of partnership between central and local government in the administration of the police service, but with a shifting of the emphasis, rendered inevitable by developments within the police service and by broad changes in our civilisation and ways of life, towards firmer control by the central government. Our recommendations are designed to remove from the present police system whatever stands in the way of achieving the objectives described in paragraph 19; and to introduce into this system anything necessary to their attainment which is at present lacking.

CHAPTER III

THE DEVELOPMENT OF POLICE FORCES: THE POLICE SERVICE TODAY

24. The police systems in England, Scotland and Wales(1) are the products of a series of compromises between conflicting principles or ideas. Consequently, in contrast to other public services such as health and education, the rationale of the police service does not rest upon any single and definite concept of the public good. Thus it is to the public good that the police should be strong and effective in preserving law and order and preventing crime; but it is equally to the public good that police power should be controlled and confined so as not to interfere arbitrarily with personal freedom. The result is compromise. The police should be powerful but not oppressive; they should be efficient but not officious; they should form an impartial force in the body politic, and yet be subject to a degree of control by persons who are not required to be impartial and who are themselves liable to police supervision.

25. It is not to our purpose to describe the history of the police systems of Great Britain in any detail, but these systems cannot be understood without first recognising the main features, or principles, which have moulded their development, and which survive to invest them with their modern character. These features are:—

(i) The local character of the office of constable.

(ii) The common law origin of the office and powers of the constable.

(iii) The subordination of the constable to justices.

The above originate in England from pre-Tudor times; the remaining two were embodied in 19th century legislation:

(iv) The embodiment of constables into forces.

(v) The subjection of police forces to a degree of local democratic supervision.

Local character of the police

26. The office of constable in England and Wales is very ancient. It is associated with the village, perhaps the oldest area of local self-government in England.(2) The constable was the executive agent of the village or township, and also its representative. As such, he was required to make quarterly reports knows as "presentments" at courts leet or, after the establishment in the fourteenth century of justices of the peace, at petty sessions. These reports dealt not only with the arrest of felons and the keeping of the King's Peace, but also with the condition of roads and bridges, and many other such matters of purely local administration. After

(1) Great Britain does not have a uniform police system. In England and Wales there are different systems in London, in the counties and in the county boroughs; and the system in Scotland is different again, although all systems have important features in common. They are described in paragraphs 49–54.

(2) H. B. Simpson, "The Office of Constable". The English Historical Review, October 1895.

Parliament came into being laws were passed requiring constables to make reports on, for example, Popish recusants, persons absenting themselves from their parish church, and profane swearers and cursers. Presentments by constables survived until as late as 1827.

27. Thus the constable kept some of his local administrative duties for a long time. He also retained, under the supervision of justices, his duties as the local keeper of the peace. Every town and rural parish appointed its constable or constables, and these often appointed deputies of low degree to act for them. In the towns, additional help was given by watchmen, appointed to guard the gates under an ancient system of Watch and Ward authorised by the Statute of Winchester of 1285. Thus no police system as such existed, and law enforcement was a matter for each local community in which all citizens were expected to join in the "hue and cry" after felons.

28. In Scotland the office of constable is not so old, nor are its roots so deep, as in England and Wales. It is true that the use of the term "constable" in Scottish statute law goes back as far as 1456, but the office in its recognisably modern sense was imported from England only after the Union of the Crowns in 1603.(3) There is, however, no reason to doubt the continuity of the office since that date: and the principle that each locality—at any rate in the Lowland burghs and counties—was responsible for its own good order is probably as ancient in Scotland as in England.

29. This long tradition of local responsibility for the maintenance of law and order was preserved when, in the last century, constables were embodied in forces; and it is the persistence of this tradition which helps to explain why there are still so many separate police forces, each identified with its own particular locality.

Common law derivation of the constable's office and powers

30. The powers of the constable, like the office itself, are very ancient in origin. They are rooted in the common law. As regards England and Wales these powers were last examined by a Royal Commission in 1929,(4) which commented as follows:

> "The police of this country have never been recognised, either in law or by tradition, as a force distinct from the general body of citizens. Despite the imposition of many extraneous duties on the police by legislation or administrative action, the principle remains that a policeman, in the view of the common law, is only 'a person paid to perform, as a matter of duty, acts which if he were so minded he might have done voluntarily.'
>
> "Indeed a policeman possesses few powers not enjoyed by the ordinary citizen, and public opinion, expressed in Parliament and elsewhere, has shown great jealousy of any attempts to give increased authority to the police. This attitude is due, we believe, not to any distrust of the police as a body, but to an instinctive feeling that, as

(3) Encyclopaedia of the Laws of Scotland, Volume 11, paragraphs 855–856.
(4) Report of the Royal Commission on Police Powers and Procedure, 1929 (Cmd. 3297.)

a matter of principle, they should have as few powers as possible which are not possessed by the ordinary citizen, and that their authority should rest on the broad basis of the consent and active co-operation of all law-abiding people. At the same time it must be realised that there are certain duties of a special nature which, if they are to be entrusted to the police and adequately performed by them, require the grant of special powers.

"It follows that the police, in exercising their functions, are, to a peculiar degree, dependent upon the goodwill of the general public and that the utmost discretion must be exercised by them to avoid over-stepping the limited powers which they possess. A proper and mutual understanding between the police and public is essential for the maintenance of law and order".

31. These observations, which we endorse, bring out the principle that police powers are mostly grounded in the common law and differ little from those of ordinary citizens, with the important corollary that the police can be fully effective only if they enjoy the support of public opinion.

32. The same principle, that police power (such as it is) originates in the common law, opens up another field in which we have heard a good deal of evidence, namely, suggestions that because his powers are original and not delegated, the constable therefore enjoys a degree of independence in the exercise of these powers. This claim to a measure of independence from outside control, which is reflected in the terms of the declaration made by a constable on appointment,(5) has far-reaching implications of constitutional significance, which we discuss later in our report.

Subordination of police to justices

33. The office of constable existed long before that of justice of the peace. But in early Tudor times,

"... as soon as a determined attempt was made to establish the royal authority throughout the kingdom, the insufficiency of the township constables to secure good order in rural districts must have become apparent to the central government;"

and the time was not long in coming

"... when the ever-growing administrative importance of the justices of the peace (created by a statute of 1361) enabled them to supersede officers of a merely local origin. ... By the end of the fourteenth century constables in the matter of keeping the peace were beginning to lose their initiative and becoming the mere subordinates of local ministers of the Crown".(6)

(5) A typical form of declaration in forces in England and Wales runs as follows:—

"I A.B. do declare that I will well and truly serve our Sovereign Lady the Queen in the office of constable without favour or affection, malice or ill-will; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law. So help me God."

(6) H. B. Simpson. Op. cit.

34. This third principle, of the subordination of the constable to the justice of the peace, somewhat erodes each of the two principles already discussed. For the office of justice was, and is, an office under the Crown. In England and Wales the justice of the peace for centuries acted as the Sovereign's agent in many matters, particularly in the keeping of the peace and in the preservation of law and order. In addition, Parliament placed administrative duties on the justices. Hence from the earliest times they combined three functions. They were the police, the judicial and the administrative authority for the county; and Parliament constantly added to their duties. They were technically officers under the Crown; but they were very substantial men, not wholly subordinate to it. However, the more the Crown's ancient Prerogative to maintain the King's Peace came to be effectively exercised by these officers, the more substantial was the inroad into the principle that law enforcement was primarily a local matter. Hence, too, came a constraint on the constable's exercise of his common law powers, and from about the end of the fourteenth to the second quarter of the nineteenth century the justice of the peace was the superior, the constable the inferior, conservator of the peace. Until about the time of the Stuarts, the constable continued to be appointed, as he had been since the Norman conquest, by the local manorial court or court leet; but during the seventeenth century it became increasingly common for the justices assembled in petty sessions to appoint constables and swear them in.(7) This principle of the subordination of the constable to justices was preserved in the nineteenth century statutes by which modern police forces were created. The law still recognises the obligation of a constable to obey the lawful orders of a justice of the peace in England and Wales. Thus the office of constable retained its ancient character of being a local office deriving authority from the common law, while at the same time taking on a novel aspect as an agency of the Sovereign's officers, the justices of the peace. This curious and confusing arrangement has given legal theorists and constitutional historians scope for a great deal of argument, much of which it has been our duty to attempt to follow. It has also led to the recognition of the constable by the law in comparatively recent times as a "ministerial officer of the Crown",(8) a description which appears to effect a reconciliation between the independent nature and common law origins and powers of the office, and its subordination to the justice.

35. The importance of the historical subordination of the constable to the justice is this. It was the legal form of control over the police favoured by Parliament in enacting the 19th century statutes which still govern their constitutional position; but it is a control which in this century has virtually fallen into disuse. The law and practice are consequently at odds, with the result that there is now uncertainty as to the

(7) The orthodox mode of appointment, down to the Parish Constables Act of 1842, was election in court leet. Justices had statutory power of appointment from an Act passed in the reign of Charles II and there is evidence that constables had been sworn in by justices for long before this. It has been suggested that the administration of the oath to constables by justices may be considered as a characteristic mark of the final subordination of local to central government in rural districts, of the conversion of a local administrative officer into a ministerial officer of the Crown.

(8) *Fisher v. Oldham Corporation* [1930] 2 K.B. 364 at page 369.

control of the police, the chief constables asserting a large measure of independence, and the police authorities appearing to exercise some, at least, of the powers formerly exercised by justices.

36. It is not easy to trace, in London, the simple relationship between the constable and the justice of the peace which existed throughout England and Wales generally. This is because, until the enactment of the Metropolitan Police Act, the appointment of the police in the London boroughs was vested in a variety of municipal, parish and *ad hoc* authorities.(9). The various police forces thus formed took their orders—so far as they received any—from the bodies which appointed them. But it is worth observing that no inconsistency was seen in individual magistrates themselves organising and paying bands of whole-time constables who acted under their immediate direction. One such constabulary—the famous Bow Street Police, established by the Fielding brothers—was eventually made the responsibility of the Home Secretary. In other cases the Government defrayed the cost of the police appointed to assist the newly-created stipendiary magistrates.

37. In Scotland, although the development of law enforcement has followed a markedly different course, there is also a long history of the subordination of constables to the Sovereign's agents. Justices of the peace first made their appearance in Scotland in 1609 under a statute of James VI and I designed to bring the law of Scotland in this matter into line with "the laudable custom of England", and by an Act of 1617 constables were placed under their control and direction. The office of justice, however, never became so well established in Scotland as it did in England and Wales, largely because the sheriff had long been the principal local judge in Scotland. When the law relating to the police in Scottish counties was first placed on a firm footing in the Police (Scotland) Act, 1857, the right of the justices of the peace to give orders to the police was expressly preserved. But the statute conferred a similar power on the sheriff and provided that if conflicting orders were given the orders of the sheriff were to prevail over those of the justices until the Secretary of State finally decided the issue. In the Police (Scotland) Act, 1956, the control of the sheriff over the county police is still recognised, but the powers of the justices have lapsed.

Nineteenth century legislation: two further features superimposed

38. The creation in the last century of statutory police forces throughout Great Britain marked a major break with the past. For hundreds of years constables had been unorganised, generally inefficient, not infrequently corrupt. Until about the middle of the eighteenth century these rudimentary arrangements made for the protection of the public were no doubt generally adequate for the needs of a predominantly rural community, but they were quite unable to cope with the consequences of the industrial revolution, the rapid expansion of the population and the growth of towns. Reluctant, however, to improve the effectiveness of the police for fear of creating an instrument capable of serving the ends of tyranny, the Govern-

(9) Thus the Watch of the City of London had for centuries been appointed by and under the control of the Common Council of the City.

ment sought to meet the situation by increasing the severity of the criminal law; and the death penalty was extended to all but the most trivial offences. But crime was not the only problem. Political agitators constituted a direct threat to established authority. At times, as during the Gordon Riots in 1780, London was in the hands of the mob, and even the military were powerless to intervene. Yet still, for another half-century, Parliament seems to have feared less the visible dangers of insecurity and of growing lawlessness than the threat to liberty which it saw in an effective police force. During this period no fewer than seventeen Parliamentary Committees investigated the problem of maintaining law and order, and the anxious debates which preceded the establishment in 1829 of the Metropolitan Police show how the Englishman's quest for security in the troubled years following the defeat of Napoleon warred with his passion for liberty. Thus a Select Committee reported in 1822—

> ". . . It is difficult to reconcile an effective system of police, with that perfect freedom of action and exemption from interference, which are the great privileges and blessings of society in this country; and Your Committee think that the forfeiture or curtailment of such advantages would be too great a sacrifice for improvements in police or facilities in detection of crime, however desirable in themselves if abstractedly considered".[10]

These debates, in substantially the same terms, have continued to the present day; and they have been echoed in much of the evidence submitted to us—with recent examples of "police states" cited as menacing instances of failure in the twentieth century to solve the problem succinctly stated two centuries earlier by Dr. Johnson:

> "The danger of unbounded liberty and the danger of bounding it have produced a problem in the science of government which human understanding seems hitherto unable to solve".[11]

The establishment of statutory local police forces was the first attempt made in this century to grapple with this problem; and it is in the legislation by which these forces were established that the characteristics which dominate the modern police system emerge.

39. Parliament appears to have had two principal aims in 1829 in setting up the Metropolitan Police and, later on, in providing for the establishment of organised police forces in the boroughs and finally in the counties. Primarily, police forces were to be effective instruments for preserving law and order and combating crime. To this end the newly-created forces had to be manifestly impartial bodies, and the constables who composed them required to be supported by regular salaries instead of casual fees, and to be armed with due authority and adequate powers, most of which were preserved from the common law. However, it was recognised that in the interests of liberty the accretion of power in a police force had to be curbed, and not exercised irresponsibly. Clearly these two objectives—to create an impartial force immune from outside influence, and at the same time to provide it with some form of external control—were incom-

(10) Report of the Select Committee on the Police of the Metropolis, 17th June, 1822. [440].
(11) Quoted by Sir Frank Newsam, "The Home Office", George Allen & Unwin, 1954.

patible. Perfection being unattainable, a compromise was effected. The common law powers and independence of the office of constable were preserved and recognised by statute; and the traditional form of control, the subordination of the constable to the justice, was similarly preserved. It was necessary, in addition, to allocate responsibility for appointing, paying and equipping the new forces, and the authorities to whom this responsibility was given themselves assumed a degree of supervision over the force, and in particular over the conduct of its chief constable.(12) The effect of these arrangements, although perhaps not their intention, was gradually to place the police under a degree of supervision by the newly strengthened, or newly created, authorities for local government.

40. Thus the basic idea emerged of a police force, itself under an ill-defined degree of local supervision, composed of a number of constables of varying ranks, each of whom, including the chief constable, enjoyed independence in enforcing the law, subject only to the lawful orders of the lower judiciary. Not surprisingly the resulting pattern of administration was somewhat confused, with blurred and overlapping areas of power and authority. To add to the confusion the basic idea was applied in different ways and at different times in the English and Welsh boroughs and counties, and in Scotland, while the Metropolitan force has since its inception been under the control of the Home Secretary. Then, superimposing itself on this variegated, evolving, ill-defined and fragmented system, came the power and influence of the Secretaries of State, gradually extending and penetrating from the centre outwards, at first persuading, later coercing, the many separate and independent local forces towards the adoption of common standards and the acceptance of a common sense of purpose.

41. In this way, and over a period of many years, the local forces, all the while diminishing in number, have come in modern times to assume the character of a nation-wide police service. But, and this underlies much of the purpose of our inquiry, the law has not kept pace with these changes. The 19th century statutes which govern the constitutional position of the police remain in force. The basic idea of local forces locally supervised, each composed of independent constables subordinate only to the judiciary, cannot at any time have been capable of easy adjustment. Today it results in a degree of vagueness in the relations between the central government, local government, the police and the judiciary which would probably be intolerable elsewhere and is tolerated, and even applauded, in this country only because it seems to work. But the fact remains that the statutory basis is not easy to reconcile with the reality of police organisation today. Nor can it easily be reconciled with the modern requirement for an operationally efficient police service to cope with the heavy incidence of mobile crime, and the vast and growing problem of handling road traffic: the problems and demands, in short, of a population several times greater than when police forces were first created, and of a civilisation incomparably more complex.

(12) The arrangements in London were somewhat different—see paragraphs 43–44. Subsequent statutory provisions recognised the entitlement of a local police authority to exercise some control over the chief constable and members of the police force which it was required by law to provide; but the nature and extent of this control is, as we indicate in the next chapter, a matter of dispute.

The theory of the police in the nineteenth century

42. To complete our analysis of the development of the police system, it is necessary to show how 19th century ideas were applied in the statutes by which the Metropolitan, provincial and Scottish police forces were created. Again we emphasise that these statutes govern the position today.

43. The Metropolitan Police Act, 1829, set the precedent. Faithful to the tradition of control of constables by justices, it enabled the Sovereign to establish what is described in section 1 of the Act as "a new police office" for the Metropolis and surrounding districts, and to appoint "two fit persons as justices of the peace" to create and administer a police force composed of "a sufficient number of fit and able men". These men were to be "sworn in by one of the said justices to act as constables for preserving peace", and they were to have "all such powers, authorities, privileges and advantages and be liable to all such duties and responsibilities as any constable duly appointed now has or hereafter may have within his constablewick by virtue of the common law of this realm or of any statutes made or to be made". Moreover, they were to "obey all such lawful commands as they may from time to time receive from any of the said justices for conducting themselves in the execution of their office".

44. In this provision is seen the preservation of the common law office of constable and its subordination to the justice.(13) The Act of 1829 goes on, however, to provide that although the Commissioner (as the justice who occupies the "new police office," was afterwards styled),(14) has powers to direct and control the force, he does so under the authority of a Secretary of State. Similarly, his powers under the Act to frame orders about the general government of his force are subject to the approbation of the Secretary of State. The precise effect of these arrangements was, and remains, somewhat obscure. But their purpose is unmistakeable: control by the justice was supplemented and modified by an element of external supervision; and, as a result of the Secretary of State's accountability to Parliament for the exercise of his authority over the Metropolitan police, it could be said that the new force was under the ultimate control of a democratically elected Parliament.(15)

45. Six years later the Municipal Corporations Act, 1835, required the boroughs to which it applied to appoint a watch committee, composed of not more than one-third of the council, with a duty to appoint a sufficient number of constables. As in the Metropolitan force, the powers of the constables under the common law were preserved; and the Act provided, similarly, that they were to obey the lawful commands of a justice. The degree of local democratic supervision over the force must have varied from place to place. It is reflected in a provision that constables are not only appointed by the watch committee, but can be dismissed or suspended by it: and there is evidence of a retreat from the subordination of the

(13) It is interesting to note that, because the Commissioner of the Metropolitan Police is himself a justice, other justices in the Metropolitan area do not possess the powers to give orders to the police which still belong to justices elsewhere.

(14) The Metropolitan Police Act, 1839, s. 4.

(15) The City of London successfully resisted attempts in 1829 and again in 1839 to bring the City within the ambit of the Metropolitan Police. They could not altogether withstand the pressure for reform, however, and the City of London Police Act, 1839, provides for the appointment of a Commissioner on the Metropolitan model but answerable to the Common Council of the City and not to the Secretary of State.

constable to justices in a provision that the latter have powers only to suspend a constable, but not to dismiss him. Whether the law empowers a watch committee to give orders to the chief constable of the force remains in dispute to this day.

46. The rural areas presented a different problem, since it was not until 1888 that county councils were set up as democratically elected bodies to administer the local government services in a county. The administrative bodies before that date were the justices assembled in general or quarter sessions. The problem was referred to a Royal Commission which recommended, in 1839, that the counties should be policed by a force whose members would be appointed, organised and managed by the Metropolitan Commissioner, the force being under the ultimate control of Parliament.([16]) It seems clear that this Commission, at least, attached greater importance to the idea of an operationally efficient force under parliamentary supervision than to any traditional control exercised by justices, or to the old tradition that law enforcement was a local matter. However, its recommendations were rejected; and the County Police Act, 1839, provided (and the County and Borough Police Act, 1856, required) that county police forces should be maintained by justices. There were also provisions, similar to those of the Metropolitan Police Act and the Municipal Corporations Act, preserving the constable's common law powers, and providing for his subordination to justices. Thus only in the counties was democratic supervision initially absent. However, in 1888, when county councils were set up, a compromise was reached, the basis of which was described by Mr. Ritchie in moving the First Reading of the Local Government Bill in the House of Commons on 19th March, 1888, in the following terms:

> "Management of the police should be considered as partaking partly of the judicial and partly of the administrative character."([17]).

The supervision of county forces was therefore to be entrusted to standing joint committees composed of equal numbers of justices and county councillors. In this way an element of democratic supervision was introduced also into the rural areas.

47. The history of Scottish police legislation in the 19th century also reflects the interaction of the idea that the control of the police in their operational duties should be in the hands of the lower judiciary, with the developing notion that a local democratically elected body should be responsible for providing its own police force. In Scottish burghs, however, the pattern was complicated by the fact that the magistrates are themselves elected persons; hence the distinction between those charged with providing, and those charged with controlling, a police force was not clearly made until comparatively late. The Burgh Police (Scotland) Act, 1892—the first statute which made the establishment of a police force mandatory in burghs—conferred the duty of raising and maintaining a force on a body of police commissioners, who are defined as "the magistrates, or magistrate and councillors, or other municipal authority". It was not until 1900 that the function was conferred on town councils as such. In the Scottish counties, where democratic government was of slower

([16]) Royal Commission on the Establishment of a Constabulary force in the counties of England and Wales. 1839 [169] 1st Report.
([17]) 323 H.C. Deb. 3s. c. 1645.

growth, the Police (Scotland) Act, 1857, had required the establishment of a police force in each county and placed the administration of the force under a police committee consisting of commissioners of supply (the principal landowners), the Lord Lieutenant and the sheriff of the county. Supervision by a popularly elected body was first introduced in 1889 following the Local Government (Scotland) Act of that year, which set up county councils for the first time. Under this Act the powers and duties of the police committee were transferred to a standing joint committee of county councillors and commissioners of supply.([18]).

48. In the meantime, the central government had strengthened its hand. The County and Borough Police Act, 1856, and the Police (Scotland) Act, 1857, provided for the first time for the appointment by the Crown of inspectors of constabulary, who were required to inspect all police forces and to report to the Secretaries of State whether or not they were efficient. An annual grant from the Exchequer, at first limited to a contribution only towards the cost of pay and clothing, and later increased to one-half of the whole cost of the force, was conditional on the force being efficient. Through the inspectorate the Government was able to exercise considerable influence, not only in maintaining standards of efficiency, but also in encouraging the development of progressive ideas and techniques. Gradually the influence of the Home Departments developed, although the statutory powers of the Secretaries of State in relation to the police remained scanty. These powers were, however, substantially increased by the Police Act, 1919, which gave the Secretaries of State power to make regulations dealing with a wide range of matters, including pay, pensions and other conditions of service.

The modern police systems

49. The police forces of England and Wales and of Scotland today still bear in their distinctive organisations the marks of the varying processes which brought them into being. In the Metropolitan Police—by far the largest force in the country, with an establishment of about 20,000—the main features of Peel's Act of 1829 survive. The Commissioner, the Deputy Commissioner and the four Assistant Commissioners are justices of the peace as well as constables: the police authority is the Home Secretary, who exercises financial control over the force and accepts a measure of administrative responsibility; moreover he is answerable to Parliament for it.

50. In the English and Welsh counties the historic link between the police and justices is reflected in the continued participation of the justices of the peace in the administration of the police, along with representatives of the county councils. The standing joint committee, which is the police authority, is composed as to one-half of members nominated by the county council from among its membership, and as to one-half of justices of the peace elected by quarter sessions. Under the Local Government Act, 1888, all police expenditure incurred by a standing joint committee is paid out of the county fund, and a county council must provide for such payment and has no power to alter the budget of the committee.([19]) The chief

([18]) The standing joint committee came to an end in Scotland in 1929, when the county council became the police authority.

([19]) Local Government Act, 1888, s. 30 (3): *ex parte Somerset County Council* [1889] 58 Law J.Q.B. 513.

constable himself appoints, promotes and disciplines the members of his force.

51. In county boroughs in England and Wales the police authority is a watch committee, which consists entirely of members of the council and exercises its powers as police authority directly by virtue of statute and not by virtue of powers delegated by the council. Under the Municipal Corporations Act, 1882, payments for expenditure by a city or borough force are made out of the borough fund subject to the order of the city or borough council; the watch committee cannot incur expenditure without the authority of the council. Powers of appointment, promotion and discipline are vested in the watch committee.

52. Scottish police law has been more recently revised and consolidated([20]) and now shows little trace of the differences in the historical development of county and burgh constabularies to which we have referred. Thus the police authority in Scotland, in counties and burghs alike, is the council itself; and the powers of appointment, dismissal, promotion and discipline are uniformly vested in the chief constable. Yet there is a reminder of older days in the still extant provision that a chief constable must obey the lawful orders of the magistrates in a burgh, or of a sheriff elsewhere. This is no mere historical survival, for the magistrates of Scottish burghs frequently issue orders to chief constables regarding such matters as the control of processions or football crowds.

53. Exchequer grant at the rate of 50 per cent. of approved expenditure has been paid from the Exchequer towards the cost of the police since 1918. Article 3 of the Police (Grant) Order, 1951 (made under section 3 of the Miscellaneous Financial Provisions Act, 1950) and article 3 of the Police (Grant) (Scotland) Order, 1947 (continued in force under the Police (Scotland) Act, 1956), make the payment of the Exchequer grant at the rate of 50 per cent. of the approved expenditure of a police authority conditional, *inter alia*, on the Secretary of State's being satisfied that the area for which the authority is responsible is efficiently policed, and give him power to withhold the grant in whole or in part if he is not satisfied on this point.

54. The police forces outside London now number 156, their establishments ranging from 18 in Shetland to over 3,000 in Lancashire. This extraordinary variety is, perhaps, the most striking feature of the British police today and the most abiding monument to their historical origin. But closer examination of the system reveals a degree of co-ordination and uniformity within the police service which reflects the continuing influence and encouragement of successive Governments. The powers of the Secretaries of State in such matters as pay and conditions of service, the supervision of police expenditure, the approval of the appointment of chief officers, and the amalgamation of police forces are considerable, and they have played a large part in bringing about the kind of integration that exists today. Statutory controls, however, by no means account for all the influence which the Home Departments wield over the police. Considerable use has been made of permissive powers to set up centres for training, technical assistance and the co-ordination of criminal records throughout

([20]) In the Police (Scotland) Act, 1956.

the country. The Government has rarely been slow to offer advice when asked for it by chief constables or police authorities, even in fields quite outside its official control. Perhaps its most significant service is in bringing the police together on a national basis, both amongst themselves and alongside representatives of police authorities, to resolve differences and to develop new ideas and methods. Thus the Police Council for Great Britain, a non-statutory body containing representatives of all ranks of the police, as well as representatives of local authority associations and of the Home Departments, acts as a negotiating body and advises the Secretaries of State on all matters connected with police pay and conditions of service.([21]) Similarly, regular conferences of chief constables in England and Wales which have developed under the guidance of the Home Office, and a Common Police Services Committee, comprising representatives of police authorities and of the Home Office, provide opportunities for the Government to be kept informed of the views of all the component parts of the police service on operational matters.([22])

55. Whether all this governmental activity has been directed along the most useful channels, or has produced all the results that could have been achieved in other ways under a less complex system of administration, will be among the questions to which we shall give attention in the following chapters. In reaching our conclusions, however, we shall have regard to the consideration stated earlier in this chapter: that efficiency is not the sole end of a good and wise administration of the police, and that the apparently confused police system which this country has inherited reflects not merely the British habit of adapting old institutions to meet new needs, but the interplay of conflicting principles of great constitutional importance which human minds have always found, and still find, the utmost difficulty in reconciling.

([21]) Besides the non-statutory Police Council for Great Britain, which was set up in 1953 as a negotiating body, there are separate statutory Police Councils for England and Wales and for Scotland. These were established by the Police Act, 1919, and they are composed of representatives of police authorities and of all ranks of the police. The chair is taken by the Secretary of State or by a senior official, and members of the Home Departments are in attendance. The Councils have consultative and advisory functions, and the Police Act, 1919, and the Police (Scotland) Act, 1956, require that any regulations governing police conditions of service must be submitted to them before they become operative.

([22]) The work of these bodies is discussed in greater detail in Chapter VII.

CHAPTER IV

THE PURPOSES OF THE POLICE AND THEIR CONSTITUTIONAL POSITION

56. In this chapter we consider whether the present legal status of the police is appropriate to their modern purposes. We therefore start by reviewing these purposes.

The purposes of the police

57. The police in this country are the instrument for enforcing the rule of law; they are the means by which civilised society maintains order, that people may live safely in their homes and go freely about their lawful business. Basically their task is the maintenance of the Queen's Peace—that is, the preservation of law and order. Without this there would be anarchy. Policemen, like everybody else, are accountable to the law. They are also the law's agents: and the uniformed policeman has for many years been recognised and accepted as the embodiment of the law's authority. In a general sense it can be said that the purpose of the police is unchanging. The constable is, as Wordsworth described the peace officer of his day, a—

"Staid guardian of the public peace".(1)

58. This, however, is only a very general description and neither English statute law nor the declaration(2) which constables are required to make carries matters very much further. Scottish police law, consolidated in 1956, is somewhat more helpful, but still by no means comprehensive. Section 4 of the Police (Scotland) Act, 1956, prescribes the duties of constables, under the direction of a chief constable, as follows:—

"to guard, patrol and watch so as—

(i) to prevent the commission of offences against the law,

(ii) to preserve order, and

(iii) to protect life and property;"

and the section goes on to prescribe further specific duties such as to make available reports to prosecuting authorities, to serve and execute warrants, to give evidence at courts of law, and other matters.

59. The policeman works in a changing society, and there is nothing constant about the range and variety of police duties, just as there is nothing constant about the pattern of crime, the behaviour of criminals, the state of public order or, at deeper levels, the hidden trends in society that dispose men to crime, to civil and industrial unrest, or to political demonstration. The emphasis on particular duties varies from one genera-

(1) The Excursion, Book 7.
(2) Page 11 footnote 5.

tion to another. At present, however, the main functions of the police may be summarised as follows:

First, the police have a duty to maintain law and order and to protect persons and property.

Secondly, they have a duty to prevent crime.

Thirdly, they are responsible for the detection of criminals and, in the course of interrogating suspected persons, they have a part to play in the early stages of the judicial process, acting under judicial restraint.

Fourthly, the police in England and Wales (but not in Scotland) have the responsibility of deciding whether or not to prosecute persons suspected of criminal offences.(3)

Fifthly, in England and Wales (but not in Scotland) the police themselves conduct many prosecutions for the less serious offences.

Sixthly, the police have the duty of controlling road traffic and advising local authorities on traffic questions.

Seventhly, the police carry out certain duties on behalf of Government Departments—for example, they conduct enquiries into applications made by persons who wish to be granted British nationality.

Eighthly, they have by long tradition a duty to befriend anyone who needs their help, and they may at any time be called upon to cope with minor or major emergencies.

60. The question must now be asked, what should be the constitutional status of police officers who perform these functions? No simple answer can be given, for police officers hold various ranks and discharge different duties; moreover the purposes which we have described themselves range widely. In what follows, therefore, we adopt an oblique approach by first examining what is the present constitutional status of the police and then considering whether this status is equally appropriate to all ranks of the police service and to all the purposes which we have set out above.

The present constitutional status of the police

61. The evidence placed before us includes a wealth of judicial pronouncements, the effect of which has been to deny any relationship of master and servant as between the police authority and the constable or as between the Crown and the constable; and in thus denying that he is a servant of either a local or a central authority, the courts have been led to assert the independent character of his office.

62. A case frequently quoted to us in this regard is that of *Fisher* v. *Oldham Corporation.*(4) Fisher, the plaintiff, claimed damages in a civil action against the corporation of the borough of Oldham for false imprisonment by a constable appointed by the Oldham Watch Committee. In his judgment McCardie J. cited with approval the following passage from the judgment of Griffiths C.J. in *Enever* v. *The King*:(5) "Now, the powers of a constable, *qua* police officer, whether conferred by common law or

(3) The decision in certain cases rests with the Director of Public Prosecutions.
(4) [1930] 2 K.B. 364. See also *Simpson v. Magistrates of Dundee* (1928 S.N. 30).
(5) [1906] 3 Commonwealth L.R. 969.

statute law, are exercised by him by virtue of his office, and cannot be exercised on the responsibility of any person but himself . . . A constable, therefore, when acting as a peace officer, is not exercising a delegated authority, but an original authority . . .". The Judge held that the watch committee had no power to control the constable's execution of the duties of his office, since the relation between master and servant did not exist between it and the police. The latter, in his view, were fulfilling their duties as public servants and officers of the Crown, sworn to preserve the peace; and the corporation was not, therefore, liable for damages resulting from police activities. A constable, he affirmed, must be personally liable in law. He was "a servant of the State, a ministerial officer of the central power, though subject, in some respects, to local supervision and local regulation". The Judge also observed that if a watch committee directed a police officer to release a man he had arrested for a serious felony, it would be the duty of the chief constable to consider whether an information should not be laid against the members of the watch committee for a conspiracy to obstruct the course of criminal justice.

63. The case of *Fisher* v. *Oldham Corporation* established that, whatever else he might be, the constable was not a servant of any organ of local government. This view was approved by the Judicial Committee of the Privy Council in *Attorney-General for New South Wales* v. *Perpetual Trustee Company*.(6) This case was based on the right of a master to be compensated for the loss of the service of his menial or domestic servant. Viscount Simonds, giving judgment, held that the Crown could not recover compensation for the loss of the service of a police officer, because the relation of master and servant upon which such actions must be founded does not exist between the Crown and the police. The constable's position was described as that of an officer whose "authority is original, not delegated, and is exercised at his own discretion by virtue of his office: he is a ministerial officer exercising statutory rights independently of contract". In the course of this judgment Viscount Simonds approved the observations made by McCardie J. in *Fisher's* case which, consistently with *Enever's* case, commended themselves to the Judicial Committee of the Privy Council as a correct statement of the law as to the relation of a constable to the watch committee or other appointing body. The judgment includes the following passage:—

> "For the appellant, great stress was laid on the change that had taken place in the organization of the police force in England since the first Metropolitan Police Act of 1829 was passed. No doubt great changes have been made, which are reflected in the organisation of the police force in New South Wales to-day, but the substantial change was made long before *Enever's* case was decided in Australia or *Fisher's* case in England, and those cases show convincingly that neither changes in organisation nor the imposition of ever-increasing statutory duties have altered the fundamental character of the constable's office. To-day, as in the past, he is in common parlance described in terms which aptly define his legal position as 'a police officer', 'an officer of justice', 'an officer of the peace'."

(6) [1955] A.C. 477.

64. In Scotland the independence of the constable has been asserted by the courts with greater caution, chiefly because the police are still bound to obey the lawful instructions of the sheriff and magistrates in regard to the maintenance of public order, and of a public prosecutor(7) in regard to criminal investigations. But equal emphasis has been laid in the Scottish courts on the freedom of the police from direction by the police authority in the discharge of their duties. In the words of Lord Salvesen in *Muir* v. *Magistrates of Hamilton*:(8)

> "[The police authority], as I read the statutes, have no power to appoint police constables, or to dismiss them; and they are, therefore, not the employers or masters of the individuals who may be appointed by the chief constable, nor answerable as such for their errors. It is nothing to the purpose that they are empowered to raise the funds necessary to provide for the maintenance of a police establishment; for, in so doing, they are merely the administrative body appointed by statute to levy the necessary funds at the expense of the ratepayers."

65. These judgments establish the legal status of the constable today beyond doubt. In their submissions to us the police witnesses relied upon them in asserting the immunity of all ranks of the police service from interference or control by a police authority or anyone else in the discharge of their police duties.(9) This claim leads to some odd and awkward consequences which it is our duty now to examine. They are not the same for all ranks, and we therefore first consider how they affect the position of police officers below the rank of chief constable, and then how they affect chief constables themselves.

Status of ranks below chief constable

66. In our interim report we drew attention to what we described as the "peculiarly personal nature of the constable's responsibility", and we concurred in an opinion expressed to us that the constable is unique among subordinates in the nature and degree of the responsibility he is required to exercise.(10) His present legal status, as an officer exercising original powers at his own discretion, is entirely compatible with the discharge of responsibility of this kind. It is not, however, so easy to reconcile this status with the constable's position as a member of a disciplined body subject to the lawful orders of his superior officers in the hierarchy.

67. This appears to us to be an area in which traditional thinking has tended to invest the constable's position with a character that in some ways has little to do with modern conditions. There are many people, such as surgeons in the National Health Service, masters of ships and captains of aircraft, to name but a few, who enjoy wide discretion based on professional skill in the way in which they carry out their duties; but these people are all servants and enjoy no special legal status implying

(7) i.e. the Lord Advocate; his local representative, the procurator fiscal; or a J.P. or burgh fiscal.
(8) 1910 1 S.L.T. 164.
(9) Minutes of Evidence 15, pages 847–8.
(10) Cmnd. 1222, paragraphs 32–34.

the degree of independence which, in practice, they exercise. Indeed the degree of independence within such occupations as these is considerably greater than that exercised by the constable, since the latter is a member of a disciplined service, subject to lawful orders from his superior officers. Consequently it appears odd that the constable enjoys a traditional status which implies a degree of independence belied by his subordinate rank in the force.

68. Nevertheless, we think that this anomalous situation is justified by the fact that the constable, in carrying out many of the purposes we described at the beginning of this chapter, ought to be manifestly impartial and uninfluenced by external pressures. For much of the time he is not acting under orders and must rely on his own discretion and knowledge of the law. This consideration applies with particular force to police activities which are sometimes described as "quasi-judicial", such as inquiries in regard to suspected offences, the arrest of persons and the decision to prosecute. In matters of this kind it is clearly in the public interest that a police officer should be answerable only to his superiors in the force and, to the extent that a matter may come before them, to the courts. His impartiality would be jeopardised, and public confidence in it shaken, if in this field he were to be made the servant of too local a body.

69. For these reasons we regard the present legal status of the constable as appropriate to his functions, and we therefore make no recommendation to alter it.

70. There is, however, an important consequence which at present flows from this status. A person who is wronged or injured by a constable acting in the course of his duty has no means of redress against anyone other than the constable himself, who is personally liable at law for his tortious acts; and it is of no avail for a litigant to sue the police authority or the Crown. Until the enactment of the Crown Proceedings Act, 1947, civil servants were in a somewhat similar position, and the purpose of section 2 of that Act was to make the Crown liable in respect of its servants or agents in the same way as any other employer. The Act did not apply to the police because, as we have shown, they are not the servants or agents of the Crown; nor are they, as are the officers to whom the Act applies, wholly paid out of central funds. It would interrupt the argument of the present chapter to discuss this matter further here, but we return to it in Chapter VI (paragraphs 195-202) in which we develop reasons for recommending that, notwithstanding the constable's present legal status, and without derogating from it, a police authority should in future be liable for tortious acts committed by police officers in the course of, or in the intended execution of, their duty.

71. Our view that the present legal status of the constable is satisfactory, subject only to placing on a police authority vicarious liability for tortious acts committed by him in the course of, or in the intended execution of, his duty, applies equally to all ranks in a police force, although there are special considerations relating to chief constables, to which we now turn.

Legal status of chief constables

72. The Association of Chief Police Officers of England and Wales submitted to us that the chief constable, because he holds the office of

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constable, therefore enjoys full protection from local control in carrying out his duties of law enforcement and in commanding his force for this purpose. They deduced from this that the status of chief constables in relation to police authorities is different from that of local government officers, and went on to say:

> "Quite clearly a police authority cannot direct a chief constable as to the manner in which he should carry out the enforcement of the law or the maintenance of The Queen's Peace, any more than they could direct any other constable on the exercise of his individual authority".(11)

They also quoted with approval the Oaksey Committee's view that

> "The police authority have no right to give the chief constable orders about the disposition of the force or the way in which police duty should be carried out, and he cannot divest himself of responsibility by turning to them for guidance or instructions on matters of police duty".(12)

73. That Your Majesty's Government in 1958 also held this view of the legal status of the office of chief constable is shown by the following statement by Lord Chesham in the House of Lords, speaking on behalf of the Government:

> "What I wish to emphasise (it has been said before, and I say it again) is that no police authority or anyone else has any authority to interfere in relation to the enforcement of the law by the police. Naturally there is normally good co-operation between the police authority and their chief constable, but the full responsibility for enforcement is a matter which is reserved entirely to the chief officer of police. In the exercise of this responsibility he is answerable to the law alone, and not to any public authority. This is the position both in the counties and in the boroughs. I think it is generally recognised to be such today, whatever may have happened in the past".(13)

74. The concluding words suggest that the present view of the independent nature of the office of chief constable, as flowing from his tenure of the office of constable, has been authoritatively affirmed only in relatively modern times. This is quite true, for it is clear that the emphasis placed by the courts on the independence of the constable's office, as a characteristic emerging from a denial of any master/servant relationship, points in a direction contrary to that of some authoritative assumptions of earlier years, which have been repeated in quite recent public pronouncements. Thus Mr. Speaker Lowther ruled, when disallowing a Parliamentary Question about rioting at Gillingham in 1917, "The hon. Member should ask the Watch Committee";(14) and in 1936 one of Your Majesty's former Secretaries of State for the Home Department, Sir John Simon, told the House of Commons, following allegations that the police had shown partiality in handling political riots in Oxford and elsewhere, "The Oxford police are subject to the ratepayers of Oxford and to the people who elect

(11) Minutes of Evidence 15, page 849.
(12) Cmd. 7831, paragraph 185.
(13) 213 H.L. Deb. 5s. c. 47.
(14) 93 H.C. Deb. 5s. c. 1613.

the City Council out of which the Watch Committee is formed".[15] In the course of this debate the Deputy Chairman said:

> "In the case of the provincial police he [the Secretary of State] cannot give orders. The orders to them are given by the statutory authority, which is the standing joint committee in the case of the county, and in the case of a borough, if it has an independent police force, it is the watch committee. They have absolute control over the provincial police . . ."[16]

A further expression of this view is to be found in a ruling given by the Speaker as recently as 1958—

> "The crux of the Hon. Member's difficulty is that the control of local police forces and chief constables is in the hands of the local authority".[17]

Some colour is given to these views by the report of the Royal Commission on Police Powers and Procedure in 1929, which stated, "The chief constable is responsible to his police authority which . . . is a unit of local government"; although the Commission went on to observe that the powers vested in police authorities "are mainly concerned with matters of policy and finance and interfere little, if at all, with the executive or technical control of the force".[18]

75. The foregoing expressions of opinion are difficult to reconcile with the judgments to which we referred in paragraphs 62–64 if it be assumed, as we have been invited to assume, that the legal status of chief constable and constable is identical. Yet the view that a police authority has, or should have, some responsibility for law and order, and has some control over the police force which it is required by law to maintain, was persistently represented to us in much of the evidence we heard, although there was little unanimity about the extent of this responsibility or the degree of control exercisable.[19]

76. The Association of Municipal Corporations went farthest in this direction.[20] They contended that a police authority has power to do whatever seems to it necessary to police its area efficiently so far as statute, regulation or common law does not derogate from that power. Some of the inferences drawn from *Fisher's* case, cited above, were in their opinion incorrect. There was nothing in law to prevent a police authority from discussing the administration of the force with the chief constable or from requiring him to report to it about his conduct of the force. A police authority was also, in the Association's view, entitled to give the chief constable instructions, for example, to take steps to enforce the law more vigorously or as to his methods in dealing with a political demonstration; stopping short, however, of interfering with the application of the criminal law in particular cases. The delegation by

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(15) 314 H.C. Deb. 5s. c. 1625.
(16) 314 H.C. Deb. 5s. c. 1554.
(17) 586 H.C. Deb. 5s. c. 1294.
(18) Cmd. 3297, paragraph 38.
(19) Thus the Clerk of the House of Commons took it for granted that a question relating to the provincial police which was ruled out of order by the Speaker, would be answered locally; and Members of Parliament expressed a similar view.
(20) Minutes of Evidence 11–12, pages 629–631.

the watch committee of executive control to the chief constable was, they suggested, a matter not of law but of good administrative practice. They acknowledged that the law governing this matter was uncertain, but thought that the present position was satisfactory and that it would be a mistake to clarify it.

77. The chief constables themselves, while repudiating any obligation to accept directions from a police authority, held that from the time of the frank-pledge, 1,200 years ago, "the duty of maintaining the peace and preventing crime has rested firmly upon the shoulders of the local community"; and they illustrated this by pointing to the liability of a police authority to meet claims under the Riot Damages Act for damages caused by riot where law and order has broken down.(21)

78. The position resulting from the foregoing is unsatisfactory and confused. It may be summarised by stating that, while the courts have established beyond doubt the legal status of the constable, the inferences drawn from these judgments as to the status of a chief constable, and his relations with a police authority, are in dispute. In practice, informal working arrangements have usually grown up between police authorities and chief constables, which have been flexible enough to render unnecessary a close analysis of the underlying principles which it is now our duty to examine. Thus a representative of the Association of Chief Police Officers told us that a chief constable would listen to any opinions expressed by the police authority as to the manner in which police duties are being performed, and if he were wise he would have regard to these opinions; but he would not accept instructions.(22) A witness from the County Councils Association summarised the Association's view by saying, "No one can tell the chief constable what he is to do, but he is responsible to the standing joint committee for what he has done".(23)

79. We have been assured by all concerned that the lack of definition in this matter rarely gives rise to practical difficulty, but we do not think it is wise to count on this indefinitely. We therefore proceed to distinguish the causes which have led to this situation, and to consider how it should be clarified.

80. It appears to us that there are three main causes of the present uncertainty attending relations between chief constables and police authorities, viz.:—

(i) The inadequacy of the law on this subject;

(ii) The fact that the form of control written by Parliament into the 19th century statutes which created modern police forces, namely preservation of the constable's subordination to justices, has fallen into disuse;

(iii) The lack of any widely accepted policy on the crucial question whether a chief constable ought to be controlled or supervised in some or all of his activities.

(21) Minutes of Evidence 15, page 843 and Q. 2797.
(22) Minutes of Evidence 15, Q. 2785.
(23) Minutes of Evidence 16, Q. 3203.

81. As regards (i), it would serve no useful purpose for us to express an opinion about the permissible limits to which a chief constable or a police authority might go in the present involved state of the law. We therefore embark upon a brief digression on the implications of (ii) before proceeding to discuss the important issues of public policy raised by (iii).

Eclipse of the constable's subordination to the justice of the peace

82. We explained in the last chapter that the 19th century statutes which created modern police forces in England and Wales preserved the traditional obligation laid upon a constable to obey the legal orders of a justice of the peace, thus providing a form of control over the police which combined the virtue of ancient usage and political acceptability. This form of control, although unrepealed by Parliament, has now fallen into virtual disuse, and is today little more than an historical survival.[24] As a result, a situation has gradually come about, unregulated and probably unrecognised by Parliament, in which chief constables, able and intelligent men, growing in professional stature and public esteem, have assumed authority and powers which their predecessors would formerly have sought from justices, now praying in aid their tenure of the independent office of constable, which as we have seen they cherish to this day as a bulwark against interference or control by the police authorities which appointed them.

83. Historical evidence on this matter is scanty, but it seems likely that in the counties the growth of chief constables towards independent professional status was more rapid than in the towns, partly because the control of justices, and later of standing joint committees, was more remote, partly perhaps because county chief constables were generally recruited from a higher social class and possessed wider powers than borough chief constables, most of whom rose from the ranks of the force which they ultimately commanded. A statement by the Government in 1888 contrasts significantly with the Government's present view which we quoted in paragraph 73. In that year the then Home Secretary, Mr. Henry Matthews, told Parliament that the principles on which the Metropolitan Police were controlled by the Home Secretary ought to hold good for the police and police authorities in the large provincial towns. It would be intolerable, he said, "if in any large town the commander of the police force, or of any other force, should hold irresponsible authority". That was a position "which could not be allowed to be assumed by the chief constable of any of the large towns of the country".[25]

84. But, as we have shown, chief constables were not without rivals in claiming to be the residuary legatees of the powers statutorily preserved for justices. Their claim to a large measure of constitutional independence was, and still is, contested by representatives of some police authorities not merely on legal grounds, but on the grounds that a police authority

(24) We have found no evidence that justices in England and Wales ever exercise their powers over the police except in the normal course of their judicial business, for example, in issuing warrants for the arrest of suspected offenders against the law. There is very little evidence that sheriffs in Scottish counties exercise the powers over the police provided by s. 4 (3) of the Police (Scotland) Act, 1956, although magistrates in Scottish burghs exercise their powers from time to time.

(25) 330 H.C. Deb. 3s. c. 1174.

ought, in the public interest, to have some control over the force which it appoints and hence over the chief constable who commands it. It is this issue of public policy that we now discuss.

Subordination of chief constables to democratic supervision

85. There was a wide concurrence of view in the evidence submitted to us that chief constables, like other police officers, should remain independent and immune from outside influence and pressure as regards certain of their activities; but witnesses were divided on the question whether, in respect of other activities, they should be placed under some form of external supervision.

86. The duties which it was generally agreed in the evidence should be performed by chief constables unhampered by any kind of external control are not capable of precise definition, but they cover broadly what we referred to earlier as "quasi-judicial" matters, that is, the enforcement of the criminal law in particular cases involving, for example, the pursuit of inquiries and decisions to arrest and to prosecute. It is not strictly true to say that chief constables have a completely free hand in these matters under the present arrangements. In England and Wales the institution and conduct of proceedings in the case of certain grave offences is statutorily reserved for the Director of Public Prosecutions; in a wider range of offences chief constables are obliged to report cases to the Director; and it is their practice to consult the Director and his officers freely on any case where they may be in doubt. In Scotland the supervision is more complete, because a decision to prosecute, and the prosecution itself, are the concern of a judicial officer, the public prosecutor; and chief constables are required by section 4 (3) of the Police (Scotland) Act, 1956, to comply with such lawful instructions as they may receive from a public prosecutor in relation to the investigation of offences. It was not suggested to us, however, that this kind of control, exercised by officers of the Crown whose own immunity from political pressure is well recognised, in any way compromises the impartiality of chief constables. And although it clearly curtails the area within which chief constables are required to exercise their unfettered discretion, it does not reduce it to negligible proportions. Even in Scotland it is an original duty of the police to initiate inquiries and pursue them to a conclusion, and the decision whether or not to do so in any particular case will be for the chief constable, except in the instances in which a public prosecutor intervenes.

87. We entirely accept that it is in the public interest that a chief constable, in dealing with these quasi-judicial matters, should be free from the conventional processes of democratic control and influence. We therefore recognise a field, wider in England and Wales than in Scotland, in which the present legal status of the chief constable is clearly justified by the purposes of his appointment, namely the field of law enforcement in relation to particular cases.

88. We now enter a more controversial area, for it is at once evident, from an appraisal of the purposes of the police which we described at the beginning of this chapter, that chief constables are concerned with many other matters than the enforcement of the law in particular cases. They

themselves gave a partial but, in our view, inadequate recognition to this in acknowledging their responsibilities as professional advisers to police authorities in such matters as fixing the establishment of the force and the numbers in the various ranks, the housing and office accommodation required, and so on.[26] It goes without saying that a police authority must have professional advice on matters for which it is legally responsible. Our concern, however, is with an entirely different range of activities, namely, those activities other than the enforcement of the law in particular cases, over which neither a police authority nor anyone else at present appears to have recognised powers of control over a chief constable, and in respect of which the chief constable is not ordinarily brought to account.

89. The range of these activities is wide, and the present legal status of the chief constable is widely regarded as providing him with unfettered discretion in their exercise—although, as we said earlier, the Association of Municipal Corporations question this. Thus he is accountable to no one, and subject to no one's orders, for the way in which, for example, he settles his general policies in regard to law enforcement over the area covered by his force, the disposition of his force, the concentration of his resources on any particular type of crime or area, the manner in which he handles political demonstrations or processions and allocates and instructs his men when preventing breaches of the peace arising from industrial disputes, the methods he employs in dealing with an outbreak of violence or of passive resistance to authority, his policy in enforcing the traffic laws and in dealing with parked vehicles, and so on.

90. The question therefore arises whether the status of the chief constable should continue in future to shield him from external control in the formulation and application of what, for convenience, we describe as police policies in matters which vitally concern the public interest. Behind this, too, lies the broader question whether the community should have some voice, through their elected representatives, locally or nationally, in the maintenance of law and order.

91. It cannot in our view be said that duties of the kind which we have described require the complete immunity from external influence that is generally acknowledged to be necessary in regard to the enforcement of the law in particular cases. The present position in the Metropolitan police area illustrates this point. The Commissioner of Police acts under the general authority of the Home Secretary, and he is accountable to the Home Secretary for the way in which he uses his force. Mr. Henry Matthews, in the speech from which we have already quoted, put it as follows:

> "It was quite plain that it was the intention of the Legislature to put the police force under the authority of the Secretary of State and to hold him fully responsible, not for every detail of the management of the force, but in regard to the general policy of the police in the discharge of their duty . . . "[27]

In practice the Commissioner's policies as regards the disposition of his force and the methods he employs can be, and frequently are, challenged

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(26) Minutes of Evidence 15, pages 853–4.

(27) 330 H.C. Deb. 3s. c. 1174. This passage (incorrectly ascribed to Sir William Harcourt) is quoted by Sir Frank Newsam, "The Home Office", George Allen & Unwin, 1954.

and debated in Parliament. Indeed the view has been put to us that the Home Secretary in recent times has perhaps gone farther in giving information to Parliament about the Metropolitan force than a strict interpretation of his responsibilities requires.

92. It appears to us that, as a matter of principle, within a similar range the activities of a chief constable of a provincial force ought also to be open to challenge, and that the chief constable should, therefore, be subject to more effective supervision than the present arrangements appear to recognise. The problem is to move towards this objective without compromising the chief constable's impartiality in enforcing the law in particular cases. There are several ways in which this problem might be approached.

93. One approach is to leave the present legal status of the chief constable unchanged but—subject to any necessary clarification to establish that he is not the subordinate of a police authority or of the central government in the sense that he is required to obey directions—to introduce a degree of formal accountability into the relations between the chief constable on the one hand, and the authority or the central government on the other, by providing for the submission by the former of reports on questions of police policies. While the chief constable would continue to enjoy immunity from orders, he would nevertheless be exposed to advice and guidance of which he would be expected to take heed. If he persistently disregarded and flouted such advice his fitness for office would be in question. In this manner an element of supervision would be exercised over the chief constable's actions, but there would be no interference with law enforcement in particular cases.

94. Scottish law already empowers both a police authority and the Secretary of State to call for reports on matters concerning "the policing of the area". This provision was introduced as a means of bringing the law into conformity with a growing, but statutorily hitherto unrecognised, practice.

95. Another way of improving the control over chief constables without altering their present legal status would be to increase the cohesion of separate forces by strengthening the links between them, and by superimposing over the whole police service a more effective system of Government inspection. The purpose of such developments would be to invest the service increasingly with the characteristics of a national body. A good deal of progress has already been made on these lines, and the object would be to accelerate it rather than to make an entirely fresh start. In this way it should be possible to create a climate of opinion in which chief constables would widen their loyalties to include a constant concern for the service as a whole.

96. The combined effect of the two measures just described would clearly be to provide a substantial check on the actions of chief constables, while leaving their present legal status unaltered. Later in our report we examine in more detail the value and adequacy of measures along these lines. But a third, and much more drastic, way of bringing chief constables under more effective supervision as regards the duties we have in mind also calls for consideration. This would be to place chief constables under the direct control of either the local or the

central government, and so to convert their present legal status to the status of local authority or Crown servants.

97. We received no evidence favouring the conversion of chief constables into local authority servants, nor do we regard this as a desirable course. It would not, in our view, make for the preservation of the impartiality of the police in enforcing the law. We therefore reject this alternative.

98. We did, on the other hand, receive a certain body of evidence favouring arrangements under which chief constables would be brought under some form of central control. It might be objected that an arrangement of this kind would equally jeopardise their impartiality, since they would be placed within a hierarchy or chain of command leading ultimately to a Minister who was himself not required to be impartial. But the Law Officers of the Crown already hold offices which combine the characteristics of answerability to Parliament with the impartiality appropriate to the administration of justice. In the case of these Ministers and, if the police were put under central control, in the case of Your Majesty's Secretaries of State also, any evidence of partiality would be open to challenge in Parliament. This course ought not, therefore, to be dismissed without due consideration.

99. Hence our discussion of the legal status of chief constables cannot be brought to a conclusion until we examine the closely related question of the arrangements by which the police should in future be controlled. It is to this matter therefore that we turn in the next chapter and, in particular, to an examination of the case for bringing the police under central control. This involves not only the status of chief constables and their accountability, but broadens our inquiry to include also a consideration of what is likely to be the most efficient police system.

CHAPTER V

ARRANGEMENTS FOR THE CONTROL OF THE POLICE

100. We have shown that the present legal status of the police, in denying that they are either Crown servants or the servants of a police authority, accords them a position of exceptional independence. It follows that they are subject to little legal control in carrying out their duties. Like everyone else they are subordinate to the law; but the effect of this is rather to restrain them from unlawful activities, than to order the manner in which they carry out those that are lawful.(1) The relation of the police to the courts is not, therefore, of any greater constitutional significance than the relation of any other citizen to the courts.

101. The lack of legal control over the activities of the police is mitigated by the fact that they are subject to the provisions of a strict discipline code and procedure. It is essential that this procedure, consistently with protecting the interests of the police, should allow for a full investigation of complaints about police conduct by citizens unable or unwilling to seek redress in the courts. We deal with this matter in Chapter IX. Apart from the recommendations contained in that chapter, which do not alter the basis of present disciplinary procedures, we do not recommend the introduction of any new form of control over the activities of police officers below the rank of chief constable.

102. The problem of controlling the police can, therefore, be re-stated as the problem of controlling chief constables. The essence of this problem is to achieve the advantage of preserving their impartiality as regards some activities, with the advantage of placing them under a degree of external supervision as regards others: more narrowly, it is to provide effective means of redress against inefficiency or bias while not hindering the efficient and impartial chief constable. Equally important, any arrangements designed to this end have to be looked at in a broader context to see how they can best promote the operational effectiveness of the police.

103. The weight of evidence before us, including the opinion of the great majority of representatives of the central government, local government and the police themselves (that is, those who understand and work the present police system), favoured retention of the present arrangements for the control of the police. While conceding that these arrangements are ill-defined, these witnesses claimed that they nevertheless offer a satisfactory compromise between the objectives of preserving impartiality and the provision of a degree of supervision; and that they are flexible enough to promote maximum operational efficiency. To persons unacquainted with the way in which the present police system works in practice this is a surprising conclusion: it is hard to see how an arrangement based on the

(1) The Judges' Rules, as interpreted and applied by the courts, regulate the manner in which police officers in England and Wales obtain evidence from suspected persons.

formal rejection of legal control over a chief constable can yet provide for a satisfactory degree of informal control; and it is hard to see how a system comprising no fewer than 158 separate forces varying in size from the Metropolitan force with an establishment of 20,000 men to the Shetland force with 18 men, can be operationally efficient. Some witnesses, with these considerations in mind, represented strongly to us that, no less in the interests of developing an efficient machine for fighting crime than in the provision of better arrangements for supervising the police, the time had come to bring all police forces under central control.

104. We, for our part, readily concede that the present system on the whole works well, but this is not the same thing as saying that it is constitutionally a proper system, or that a series of local forces is necessarily the best means of enabling the police effectively to fulfil their purposes. An appraisal of these purposes, as they are set out at the beginning of the last chapter, indicates that there is nothing peculiarly local about any of them—except in the obvious sense that police work must be carried out in a particular locality. The purposes themselves do not require that the police should be organised into separate local forces. They could be, and in some countries are, fulfilled by a single force, centrally controlled, operating in local units. Consequently if any form of local control is in future to be recognised, or any arrangement made under which local influence can be brought to bear on the police, it should in our opinion serve some clear purpose in the public interest; and it must not stand in the way of the police service in developing its full resources to combat crime.

105. In this chapter we first describe the present statutory and informal controls over chief constables, and go on to show that deficiencies in the law have to some extent been offset by a highly-developed system of practical administration, the trend of which in modern times has been to enhance the authority of the central Departments. On this basis we examine the case for putting the whole police service formally under the control of the Government. Finally, we set out our reasons for thinking that the present system of partnership between local and central government for the administration of the service possesses a combination of features superior to any likely to be found in a "national" or unified service; and we reach the conclusion that this system can be adapted, without losing these features, to secure the main advantages which a unified service might offer.

Present control over chief constables

Direct legal control

106. The following provisions represent the more important of the present direct controls over chief constables:—

(*a*) The chief constable is subject to the disciplinary control of the police authority[2] in respect of offences against the police discipline code (which covers such matters as corrupt practice, unnecessary exercise of authority or being found guilty of a criminal

[2] Under the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) Regulations, 1952, and the Police (Discipline) (Scotland) Regulations, 1952.

offence). The punishments available comprise a reprimand, a requirement to resign, and dismissal.

(*b*) Independently of these provisions, a chief constable in England and Wales may be dismissed by the police authority at its discretion.[3] (In boroughs, where the power of dismissal is applicable to all constables, it is dependent on a decision by the watch committee that the officer has been "negligent in the discharge of his duty or otherwise unfit for the same").

(*c*) In the Metropolis the Commissioner, who is appointed by the Sovereign under the Sign Manual, is required to submit for the approval of the Home Secretary such orders and regulations as he makes for the general government of the force.[4]

(*d*) In the rest of England and Wales the chief constable is required to obey all lawful commands of the justices, whether in counties[5] or in boroughs.[6]

(*e*) In Scotland the chief constable is required to obey all lawful instructions of a public prosecutor, of the magistrates in a burgh, and of the sheriff elsewhere.[7]

(*f*) In Scotland a chief constable must on request from the Secretary of State, the sheriff, the magistrates of a burgh in his area or the police authority submit a report on any matter concerned with the policing of his area.[8]

107. Of these controls, we have already stated that the powers of the justices in England and Wales are practically unused. We accordingly recommend that the statutory provisions concerning the relations between the police and justices of the peace be examined with a view either to their repeal, or to bringing them into line with modern requirements.

108. The remaining powers are sufficiently clear and are exercised from time to time. But they are not of such a kind as to constitute a practical means of exerting influence on (much less of giving orders to) chief constables in the formation of what we have called police policies. A power to dismiss on disciplinary grounds has only a regulative effect, and is subject to appeal. The somewhat arbitrary powers of dismissal, apparently without cause shown, which are conferred on police authorities in England and Wales by the Acts of 1839 and 1882, are also subject to appeal; and they were obviously not intended to be instruments for compelling a change of policy by a chief constable on a relatively minor matter, nor are they appropriate for that purpose. Finally, the power to call for reports which various authorities in Scotland possess is limited in scope. It affords an opportunity for the expression of anxiety by the local community or the central authority about the trend of a chief constable's

(3) County Police Act, 1839, s. 4, as read with the Local Government Act, 1888, s. 9 (1); Municipal Corporations Act, 1882, s. 191 (4); *Ridge v. Baldwin and Others* [1962] 2 W.L.R. 716.
(4) Metropolitan Police Act, 1829, s. 5.
(5) County and Borough Police Act, 1856, s. 6.
(6) Municipal Corporations Act, 1882, s. 191 (2).
(7) Police (Scotland) Act, 1956, s. 4 (3).
(8) Police (Scotland) Act, 1956, s. 34.

actions; but it does not provide a direct means of checking or altering them.

109. The relative weakness of the direct statutory controls over the chief constable is in some degree offset by the range and power of indirect legal controls and non-statutory arrangements, which we now summarise.

Indirect legal control

110. The following provisions confer an additional degree of control over, and limit the authority of, chief constables:—

(*a*) The police authority has the duty of raising and maintaining a police force.(9) This implies a control over the size of the force, the quantity and type of equipment, police buildings and housing—matters of great importance to the chief constable, but in regard to which he occupies a position similar to that of chief officers of a local authority.

(*b*) In all forces other than the Metropolitan force the police authority appoints or has to approve the appointment of the deputy chief constable(10) and, except in county and combined forces in England and Wales, it acts as disciplinary authority for the deputy and also any assistant chief constables.(11)

(*c*) In borough forces in England and Wales the police authority appoints and promotes and acts as disciplinary authority for all members of the force.(12)

(*d*) The Secretaries of State have power to make regulations as to "the government and administration" of all police forces.(13) This power has been used to regulate *inter alia* the conditions of appointment of policemen, promotion, discipline, hours of duty, etc., which are matters within the responsibility of chief constables.

(*e*) The Secretaries of State are required, in terms of Grant Orders of 1947 and 1951, before defraying the prescribed proportion (one half) of the approved expenditure of a police authority, to satisfy themselves on three matters: (i) that its area is efficiently policed; (ii) that adequate co-operation is afforded by its force to other police forces; and (iii) that the police service is efficiently and properly maintained, equipped and administered, and that the rates of pay and allowances of the force are as prescribed or approved by the Secretary of State.(14)

(*f*) The Secretaries of State have power to appoint inspectors of constabulary with a duty to inquire into and report on the state and

(9) Metropolitan Police Act, 1829, s. 4; County Police Act, 1839, s. 2; County and Borough Police Act, 1856, s. 1; Municipal Corporations Act, 1882, s. 191; Police (Scotland) Act, 1956, ss. 3 and 14.

(10) County Police Act, 1839, s. 7; Municipal Corporations Act, 1882, s. 191 (1); Police (Scotland) Act, 1956, s. 10.

(11) Municipal Corporations Act, 1882, s. 191 (3) and (4); Police (Appeals) Act, 1927, s. 1 (3) and Schedule; Police (Scotland) Act, 1956, s. 10 (5). In the Metropolis, the appointment and removal of the deputy and assistant commissioners is in the hands of the Crown.

(12) Municipal Corporations Act, s. 191 (1) and (4).

(13) Police (Scotland) Act, 1956, s. 11 (1): the corresponding power in England and Wales, less concisely expressed, is in the Police Act, 1919.

(14) Police (Grant) (Scotland) Order, 1947, and Police (Grant) Order, 1951.

efficiency of police forces. General reports of their inspections must be laid annually before Parliament.[15]

(g) The Secretaries of State have power to authorise and incur expenditure on what are called "common services" for such purposes as training and technical assistance to police forces.[16]

111. The effect of these controls as a check on the actions of chief constables needs to be seen comprehensively, and not by considering each control in isolation. Thus the police authority's responsibility for maintaining a police force, which on the face of it opens the way to substantial interference with the working of the force, is largely offset by the fact that many of the aspects in which an authority might wish to introduce its own standards are covered explicitly in the Secretary of State's regulations. Expenditure on a lower or higher scale than the Government deems nationally appropriate can be checked by the Secretary of State in the exercise of his grant-aiding function. In general, where the powers of the Secretary of State and of the police authority overlap on any matter affecting the conduct of the chief constable the powers of the former are decisive. Yet—and this is the result of deliberate policy rather than of legislative accident—the Secretary of State's powers of intervention in police affairs never strike at the chief constable direct, but only at the police authority (e.g. through the total or partial withdrawal of the police grant) even in matters in which the authority itself is clearly debarred from directly interfering with the chief constable, and in regard to which it may lack technical competence. The pattern, consistent with the present status of the police, is thus one of elaborate checks and counter-checks with the minimum of direction and command.

Non-statutory arrangements

112. The full extent and reality of control over chief constables is not, however, seen simply by examining the statutes, for it is necessary also to take into account the use to which Ministers have put the permissive powers and the various administrative devices at their disposal. By these means they have built up a system of practical supervision which, it may be argued, goes a long way towards compensating them for the poverty of their statutory control.

113. An example of the use of permissive power is seen in the Government's initiative in setting up police colleges and district training centres for recruits throughout the country. The effect of this has been to invest the central departments with responsibility for both the policy and practice of basic training and education throughout the police service. They have thus reduced the responsibility of individual chief constables in this field without taking specific powers by statute or regulation to do so. An administrative device which now forms an essential part of the working of the modern police service is a system of district and central conferences, attended by chief constables and other senior officers together with representatives of the Home Departments. These conferences provide regular

(15) Police (His Majesty's Inspectors of Constabulary) Act, 1945; Police (Scotland) Act, 1956, s. 33.

(16) Police (Grant) Order, 1951, s. 1 (1); Police (Scotland) Act, 1956, s. 29.

opportunities for the exchange of views about police matters and for the promotion of uniform practices. Another extremely common administrative device is illustrated by the range and frequency of circulars issued by the Home Departments to police authorities and chief constables. These often explain the effect of new laws but they contain, in addition, suggestions that the adoption of a common policy on prescribed lines would make for uniformity and be found satisfactory in other respects. Suggestions of this kind are normally based on discussion and agreement between representative chief constables and others concerned. Partly for this reason, and no doubt also because of the vague but minatory implications of non-conformity, a chief constable would hesitate to press disagreement with the Department's guidance to the point of refusal to accept it.

114. The considerations underlying this preference for government by influence rather than command appear to us to be two-fold. First, the urgent needs of the time, perceived in wise administration, have shifted the modern reality of the police service a long way from its statutory basis. The Secretaries of State can no longer discharge their responsibility for the maintenance of national law and order by satisfying themselves as to the individual effectiveness of a large number of separate police forces. They must in an increasing degree be satisfied as to the co-operation of forces with one another, and as to their adoption of uniform standards and techniques. These are matters, for the most part, within the professional discretion of chief constables and not of police authorities, so that the familiar mechanism of direct pressure on the authority—for which the law provides—does not operate easily. It is often, in any case, inappropriate. Why, then, do not the Secretaries of State take powers appropriate to the needs of the situation? Here the second consideration emerges, and no certain answer can be given. Perhaps it is because the purposes of Government have hitherto been adequately secured by persuasion and influence ; perhaps because the powers which any Government may require are not always capable of precise definition ; perhaps because any Government in this country would hesitate, on its own initiative, to seek from Parliament additional powers in relation to the police ; above all, perhaps, because British experience in many fields of administration has shown that more can generally be achieved in the long run by persuasion than by compulsion.

115. For some or all of these reasons it is clear that there is a wide gap between the legislative basis of control, especially the control at the disposal of the Secretaries of State, and the present reality. This gap is filled by a variety of devices and agencies which, backed by the prestige of the Home Departments, combine to invest the modern police service with a considerable degree of homogeneity. This dominant characteristic of the police service is recognised in other ways—for example, the Associations of Chief Constables, the Superintendents' Associations and the Police Federations are national bodies concerned with the welfare and development of the police service as a whole. The statutory Police Councils and the Police Council for Great Britain are also national bodies.([17]) Moreover, the Metropolitan force, comprising about one-quarter of the police

([17]) The purpose of these Councils is described in paragraph 54.

forces of England and Wales, is not directly connected with local government.

116. A realistic appraisal of the present arrangements for control must consequently recognise that for many years there has been, under the guidance of the Home Departments, a centralising process which has steadily gained momentum. As a result the police service cannot with any precision be described simply as a local service. But neither can it be described as a national service, because there is no clear central control or chain of command. Hence both central and local government claim an interest in the police, and administer the service in partnership, this being reflected in the fact that they share the cost equally between them. This principle of a sharing of responsibility between central and local government accords with a long-established tradition in this country, but the particular allocation of responsibility at any time is no more than a convenient working arrangement.

117. Much of the evidence we heard indicated that the influence of the central Government is now dominant; and most witnesses accepted this as inevitable. Some, however, expressed dissatisfaction with a situation in which the balance between local and central responsibility for the police service is not adequately revealed in the statutes which purport to govern it. It was put to us by the Inns of Court Conservative and Unionist Society that:—

> "The present fiction that because he [the Home Secretary] does not control them [police forces] he should not be answerable for them seems to result in us having the worst of both worlds, in that control is in fact exercised by anonymous Home Office officials whose conduct cannot be examined or questioned".(18)

These witnesses went on to argue that the effective supremacy of the Government in the administration of police forces should be recognised by making the Secretaries of State answerable to Parliament for all police forces, and in consequence giving them the right to say how police forces should be run.

The case for a unified or "national" police service

118. At present, as we have seen, a large number of separate local police authorities have a statutory duty to provide police forces, and their chief officers, supported by the members of their forces, have a duty—for which they are not, however, accountable to the police authorities—to enforce the law. The consequences of complete unification would be two-fold. In the first place, police authorities would be relieved of their duty to provide police forces and this would be transferred to the central Government, which would then be responsible for providing a national police force (or national forces for England and Wales and for Scotland, or regional forces). Thus police authorities would be abolished, and the policing of this country would be made entirely a central responsibility. In the second place, the semi-autonomous office of chief constable would disappear, since these officers would be brought within a single police hierarchy; and thus they would be made answerable to the central Government for some or all of

(18) Minutes of Evidence 11–12, page 691.

their activities in a way in which they are not at present answerable to local police authorities.

119. The case for making a change in this direction, although not precisely in this form, was argued by two witnesses—the Law Society and the Inns of Court Conservative and Unionist Society.[19] They advanced two distinct sets of arguments in its favour :—

(*a*) The alleged unsuitability of local government to administer the police service and the more effective and constitutionally more satisfactory control which would be a consequence of bringing the police under Parliamentary supervision.

(*b*) The better organisation which would be possible within a single centrally administered force, (or large regional forces) with consequent improvements in the effectiveness of the police in fighting crime, handling road traffic and so on.

120. Criticism under (*a*) was not based on any general appraisal of the quality of local government or the fitness of local authorities to administer services other than the police. The Law Society[20] told us that they based their criticism on the belief that watch committees (who, in addition to having responsibility for providing a police force, have powers of appointment, promotion and discipline in relation to the police) in some instances allowed themselves to be influenced by local pressure, partisanship, political bias, personal relationships, and reluctance to provide additional equipment likely to increase the efficiency of the police because the cost might result in increases in local rates. The Law Society did not consider that standing joint committees (who have no powers of promotion at all, and no powers of appointment or dismissal, except in relation to chief constables) were handicapped to the same extent, but they saw a possibility that they could be so handicapped in the future. Moreover, the Law Society believed it to be wrong that there should be any association between administrative and judicial functions—as there can be in a system where magistrates are appointed as members of standing joint committees, and members of watch committees occasionally sit as magistrates.

121. These considerations, together with improvements in operational effectiveness which, it was claimed, would result from the withdrawal of the police service from local government, led the Law Society to recommend that the control of police forces should be vested in chief constables, who in turn would be placed under the general direction of a police commission. The commission would be accountable to Parliament through the Secretary of State.

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[19] Other witnesses who appeared to favour a shifting of responsibility for the police away from local government included the Magistrates' Association, the Police Federation and the Chief Constable of Lancashire, Colonel T. E. St. Johnston. The Magistrates' Association proposed that a population figure of the order of 500,000 should be regarded as the normal minimum for a police force. The Police Federation sought no reduction in the number of local police forces, but suggested the creation of regional units to administer them, with regional commissioners, who would have executive and operational functions. The Chief Constable of Lancashire discussed the advantages of a national police force and regional forces, and invited us to consider a scheme involving the abolition of most county borough forces. (Minutes of Evidence 14, page 789; 18, pages 1028 and 1065 and Q. 3508; 15, pages 921–932).

[20] Minutes of Evidence 19, page 1072.

122. The Inns of Court Conservative and Unionist Society[21] supported the abolition of local police authorities less on the grounds of their past performance than on the improved constitutional position which they saw in placing the police under the supervision of a Minister accountable to Parliament. They argued that law enforcement and the preservation of the Queen's Peace are essentially matters for central and not local government. When things go wrong in the police, they suggested, it is a proper matter of concern for all and should, therefore, be ventilated in Parliament rather than confined to the town hall. At the same time they deplored the complete sacrifice of local loyalties and traditions, which they regarded as valuable. Praying in aid also the improved operational efficiency which they regarded as the outcome of larger police forces, they accordingly recommended that eleven regional forces should be established in England and Wales. Each regional force would be under the control of a high ranking police officer appointed by the Secretary of State and answerable to him. Thus the Secretary of State would be answerable for questions relating to all the police, and he would be empowered to give directions which should, however, be given publicly. Matters of general administration such as the provision of premises should be administered by an *ad hoc* regional authority composed of representatives of local authorities within the regional area, together with an equal number of persons appointed by the Secretary of State. There was little substance, in their opinion, in the argument that central control of the police would facilitate the establishment in this country of a police state, and that such a change was therefore constitutionally objectionable.[22] The ultimate Parliamentary control which would result from the establishment of a national police service, far from being a danger to liberty, would, in their view, be its guarantor. The present arrangement by which chief constables exercise powers for which they do not appear to be fully accountable could not, they held, be defended.

123. The Inns of Court Conservative and Unionist Society, like the Law Society,[22] denied that their proposals amounted to the establishment of a "national" or unified police service. The former expressed the opinion that "It may very well be that such a force [i.e. a unified force] would be the most efficient way of policing the country, but we are convinced that the English citizen would not tolerate the proposal".[24] We find this opposition to the introduction of a unified police service difficult to reconcile with the changes advocated by both these witnesses.

124. Witnesses argued that a national police service (or regional forces) would provide improved organisation in the following respects.

(*a*) A national or regional force with central arrangements for promoting and transferring men would ensure that the available manpower was used with the maximum economy and to the best advantage. At the same time it would offer a more satisfactory career, since an officer's prospects would no longer, as at present, be largely determined by the size of the force to which he belonged. The

(21) Minutes of Evidence 11–12, pages 684–692.
(22) Minutes of Evidence 12, Q. 2454–6.
(23) Minutes of Evidence 19, Q. 3863–3865.
(24) Minutes of Evidence 11–12, page 687.

creation of ten or a dozen high ranking posts of regional commander or commissioner would provide an important attraction to recruits of good quality, and in time raise the whole status of the police service ;

(*b*) The transfer of full responsibility for appointing chief police officers from local to central government would ensure that only the best men were selected for these important posts, their selection being entirely uninfluenced by local or political considerations ;

(*c*) The establishment of a unified police force would facilitate the creation and effective development of a central organisation for research into the pattern of crime, methods employed by criminals, and detection techniques ;

(*d*) A police service centrally controlled would promote greater uniformity of practice in enforcing the law, e.g. in relation to parking and other traffic offences. The law is national and its enforcement should be uniform to a greater extent than is now practicable. An important result of this would be an improvement in relations between the police and the motorist.

125. It was also claimed that greater efficiency would result from a central organisation. More specifically, it was pointed out to us that criminals recognise no local government boundaries, and many of them travel about the country in fast cars, executing their plans on a big scale. In fighting crime of this kind the police are handicapped unless they can enjoy the advantages of central command, without which no army could hope to win a battle. Small forces are particularly handicapped in their lack of modern technical facilities. Greater flexibility in the deployment of men and technical resources would be possible in a unified force, with a consequent improvement in efficiency.

126. These arguments were pressed upon us with particular vigour in relation to the present state of crime in this country. During the last ten years indictable crimes have more than doubled and the figures are still rising. It is manifest that the police service is facing a critical situation. In these circumstances, it was argued, it is imperative that any brake on efficiency caused by out-of-date forms of organisation should be removed.

127. It was contended, on similar lines, that a unified police service would also be better able to cope with the growing problem of road traffic. Admittedly local forces often attain high standards of efficiency in handling traffic within their own boundaries, but effective planning to deal with traffic problems requires a more extensive area than most police forces at present cover. The development of trunk roads had, it was submitted, accentuated the need for large-scale plans to cope with modern traffic problems.

Comment on the case for unifying the police service

128. The foregoing constitutes a substantial case for creating a national police service. The organisation would be more logical, and this should lead to more effective and economic use of manpower than has so far been achieved under the present arrangements. Most of the police witnesses doubted whether, within the framework of a unified service, the police

would be operationally more efficient. This is a matter to which we have given long and careful consideration; and there remains in the minds of a number of us a clear impression that a single centrally directed force would prove to be a more effective instrument for fighting crime and for handling road traffic than the present large number of local forces, each possessing a greater degree of autonomy than we think should be preserved.

129. We also accept that there is something in the criticism we have heard of the suitability of local government to administer the police service, but this must be kept in proper perspective.

130. In the nature of things it is not easy to obtain and evaluate evidence about alleged malpractices of the kind to which the Law Society referred. We have come across instances where persons elected to police authorities have sought to exercise improper influence on chief constables and other police officers, but we believe that these instances are very few in relation to the large number of police authorities who for many years have conducted their relations with the police with complete propriety. The system on the whole works well because it is worked by reasonable people on both sides. The fact remains, however, that it does undoubtedly provide opportunities for the exercise of ill-advised influence on the police, and occasionally these opportunities have been exploited. On the other hand, instances have come to our attention where it is apparent that a police authority has failed to exercise the disciplinary control which might have been expected of it over a chief constable whom it knew to be weak, indolent or inefficient.

131. Here is the essence of the police authority's dilemma, a dilemma inescapable so long as the efficiency of policing continues to be the concern of local government. We are not now thinking of the very occasional attempt to suborn or corrupt the police, but of the well-intentioned police authority acting with a full sense of responsibility. If such an authority seeks to exercise too much control over its chief constable it is open to the accusation of bringing improper influence to bear on the police, and thus of interfering in law enforcement; yet if the authority exercises too little control it is open to the charge that it has failed in the purpose for which it was appointed. It is not enough to observe that most police authorities, with the aid of their own officers and of officials in the Home Departments, have for many years walked delicately, like Agag, and with more conspicuous success. The important question is whether such delicacy should continue to be demanded—whether the efficiency of policing is a necessary concern of local government.

132. Another matter prominent in our minds—which was not, however, referred to by any witnesses—is that the present partnership between local and central government for the administration of the police service failed signally to maintain police pay at a level adequate either to give the police a sense of fair play or to maintain the strength of the force at a time when crime was mounting. We dealt with this matter fully in our interim report. Here it is enough to observe that a system of control which allowed the situation to deteriorate to the extent revealed by our earlier report must itself be called in question.

133. It is necessary at this point to deal with an argument to which most witnesses who favoured the retention of the present police system attached great importance, namely that the creation of a unified police force would be constitutionally and politically objectionable since such a force, controlled by the central Government, would facilitate the establishment in this country of a police state. If this view were sound it would clearly constitute a decisive objection to the unification of the police service.

Police states

134. The term "police state" is commonly used as a description of totalitarian regimes which set arbitrary and oppressive limits to personal freedom, and enforce submission by the use of police powers. It was put to us that, so long as the police in Great Britain are not controlled by the Government, tyranny will be impossible in this country; but that, if the present system of local forces were to be abolished in favour of a unified police service, any future Government would have ready to hand the means of establishing a police state.

135. We find this argument unconvincing, for it rests, in our view, on fallacious assumptions. British liberty does not depend, and never has depended, upon the dispersal of police power. It has never depended upon any particular form of police organisation. It depends on the supremacy of Parliament and on the rule of law. We do not accept that the criterion of a police state is whether a country's police force is national rather than local—if that were the test, Belgium, Denmark and Sweden should be described as police states. The proper criterion is whether the police are answerable to the law and, ultimately, to a democratically elected Parliament. It is here, in our view, that the distinction is to be found between a free and a totalitarian state. In the countries to which the term police state is applied opprobriously, police power is controlled by the government; but they are so called not because the police are nationally organised, but because the government acknowledges no accountability to a democratically elected parliament, and the citizen cannot rely on the courts to protect him. Thus in such countries the foundations upon which British liberty rests do not exist.

136. This does not meet the arguments of those who see in the continental and British police systems a fundamental contrast: between the continental principle of placing responsibility for the maintenance of law and order upon the executive government, and arming it with powers of direct enforcement; and the British principle that it is the right and duty of each citizen to preserve the peace and bring malefactors to justice, with its corollary that the police are merely paid to act on the citizens' behalf. The contrast, on this view, is seen in small things and big things alike: the British police are unarmed, but most policemen on the continent carry arms; and political and secret police appear to flourish on the continent, for their role as agents of the state leaves them a prey to political extremists.

137. It would be foolish in the extreme to disregard the lessons of recent history, but they need to be examined realistically. Those who fear that a

unified police service would endanger lawful government appear to us to overlook the fact that the Metropolitan force has, since its inception, been under the control of the Home Secretary. Members of Parliament and others who criticised the present police system on constitutional grounds expressed no concern about the Government's control over this force—which comprises about one-quarter of all the police in the country. Their concern was about the lack of effective control over provincial chief constables.

138. Admittedly, to place the police under the direct control of the Government would be a notable constitutional change. Theoretically, it could be argued that a party in power, confident of the support of a majority of Members of the House of Commons, would possess opportunities of using the police for their own purposes—possibly for the purpose of perpetuating their own power. Orders could be given for the arrest of persons ill-disposed to the Government. It is not difficult to recall recent instances abroad where such things have happened. So long, however, as the citizen is protected by the rule of law and the independence of the judiciary we believe the risk of such mischief in this country to be remote. If tyranny were to be established here the police would, *ex hypothesi*, be pliant to its commands. The causes that would set up a dictatorship in Great Britain would far transcend the means at the disposal of the dictator to impose his will. They would be of a kind that would sweep an extremist party into power with a policy so radical as to change the forms of government itself and not merely its instruments. The fact that such a party controlled the police initially would be unimportant; it would control them finally.

139. It is not in our view profitable to base the arrangements for the control and organisation of the police upon such speculative considerations. We therefore summarise our opinion on this matter by observing that to place the police under the control of a well-disposed government would be neither constitutionally objectionable nor politically dangerous; and if an ill-disposed government were to come into office it would without doubt seize control of the police however they might be organised. If reasons are to be found for continuing a system of local police forces, therefore, they must be found elsewhere.

The case for continuing local police forces

140. In contrast to the evidence favouring the creation of some form of unified police service([25]) we heard a great deal of evidence, almost entirely from persons and organisations closely associated with the present system, in favour of retaining a police organisation based on local forces, and administered by partnership between central and local government. In evaluating some of this evidence we have borne in mind that anyone in day-to-day touch with any organisation finds difficulty in viewing it objectively, and that some allowance must be made for the influence of vested interest. Nevertheless, we were much impressed by the wide concurrence of view among witnesses representing the central Government, the local authority associations and the police themselves that a system based on local forces can continue adequately to meet the needs of the time and

([25]) Summarised in paragraphs 119–127 above.

that there is, therefore, no need for any radical alteration in the way in which the police service is controlled.

141. A system which has stood the test of time and has emerged successfully after severe strains in peacetime and proved to be adaptable in time of war and which, moreover, commends itself strongly to the Home Departments, the local authorities and the chief constables, must obviously have strong claims to public confidence. This we entirely accept. The recent events which led to public criticism of the police and ultimately to the appointment of the present Royal Commission did not reveal major defects in the system, so much as occasional failures in human relationships and a lack of clear definition of fields of responsibility.

142. The basic soundness of our present police system is not due merely to the fact that reasonable people operate it successfully—though that is certainly true. Nor, again, is the system sound merely because it follows a tradition of local policing which is traceable back for many centuries—though that also is true. In our opinion the present police system is sound because it is based upon, and reflects, a political idea of immense practical value which has gained wide acceptance in this country, namely the idea of partnership between central and local government in the administration of public services. This idea, working itself out in a variety of ways in our education, health, housing and other services, admirably suits the British temperament. It gives free rein to discussion and ample scope for compromise, thus promoting the growth of an enlightened and mature public opinion. It provides for the central pooling of knowledge and experience gathered from the whole country, but for the local application of this knowledge and experience to suit the needs of each particular community. By bringing into the administration of public services large numbers of men and women of goodwill it encourages the development throughout our society of a sense of civic responsibility. These are imponderable but very real gains. They ought not to be lightly surrendered.

143. If we are right in our view that the idea of partnership between central and local government in administering public services is sound, then the arguments which support this idea apply *a fortiori* to the police service. There is much to be said for the view that the maintenance of law and order should be the concern of public-spirited people throughout the country, and not only in Westminster and Whitehall. Moreover, the constable, as we pointed out in Chapter III, is in the view of the common law only a person paid to perform acts which it is the duty of every citizen to carry out; and because of this the relation between the police and the public is especially intimate and delicate. Each must rely upon the support of the other. Recognition of this led the Association of Municipal Corporations to observe:

> "It is important that the constable should be regarded as belonging to the area he serves and should not be thought of as under the control of an outside body. Large forces, most of all a national force, would be too big and 'professional' to preserve the constable's existing status as an ordinary member of the community which he serves".([26])

([26]) Minutes of Evidence 11–12, page 626.

The Association went on to draw our attention to the view expressed by the Desborough Committee that

> "The adoption of direct central control of the police . . . would alter the whole basis of the police system and in particular would prejudice the intimate relations between the police and the localities where they serve which many experienced witnesses have regarded as one of the most desirable characteristics of the present system and to which they attribute in great measure the happy relations which have existed between the police and the general public in this country".[27]

144. These views were fully shared by most of the police witnesses. The Association of Chief Police Officers told us that they attached great importance to the link between the police and local government, and that it followed that police areas should be conterminous with local government boundaries.[28] They pointed out that members of police authorities, as representatives of the public, may be in a better position to assess public opinion than the police themselves; and that informal discussion between police authorities and chief constables was invaluable. As one chief constable expressed it

> "Informal consultation [between chief constables and police authorities] . . . does take place. After all, the members of the police authority are representative of the city or area as a whole, and they do undoubtedly hear public opinion in a way that perhaps might not come to the notice of the chief constable, and therefore the chief officer of police would warmly welcome that sort of help from the police authority. . . ."[29]

145. Police witnesses also argued that higher efficiency was attainable within a system of local police forces than would be possible in a unified police service. Thus the existence of local forces was a substantial help in attracting recruits. Men preferred to join a particular force, but might well be deterred by the prospect of joining a large national body, with the attendant risk that they might be transferred from one part of the country to another. Again, the chief constables pointed out that the present system provided valuable opportunities for individual initiative and enterprise, and for pioneering new experiments and techniques. The scope for initiative of this kind would be much reduced in a unified service, with its tendency to impose uniformity and common standards. We were also asked to bear in mind that the maintenance of local associations was of great importance in fighting crime.

146. There is another practical reason why the present link between the police and local government should not be lightly broken. At present it is usual for the administrative resources of the town or county hall to be used for police purposes. A unified police service would require the provision of new administrative arrangements throughout the country operated by regional or district offices. This would not only be more costly than the present arrangements, but would open the way to the rigidity which seems to be inseparable from any large organisation. Indeed, a

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(27) Report of the Committee on the Police Service of England, Wales and Scotland, 1920, paragraph 17 (Cmd. 574).
(28) Minutes of Evidence 15, Q. 2799.
(29) Minutes of Evidence 15, Q. 2789.

unified police service itself could be expected to develop the faults and habits of bureaucracy from which the Metropolitan Police, admirable though it is, is not entirely free. It is the common experience that local services, locally administered, tend to be more flexible and more easily called to account than large ones, centrally administered.

Conclusions on arrangements for the control of the police

147. As we stressed at the beginning of our report, we could not recommend to Your Majesty the continuance of a system which hampered the police in the execution of their duties. A long tradition of association between the police and local justices is today no more than an historical survival without practical significance. This has given way to a relatively new association between the police and local government: but this, in our opinion, should have no greater sanctity if it impedes progress towards the development of a police service matched to the requirements of the second half of the twentieth century. That there is a strong case for bringing the police of this country under complete central control is undeniable. Such a step might well enable the service more effectively to fulfil its purposes and, at the same time, would put it under effective Parliamentary supervision. These would be important gains. Moreover, we discount any suggestion that a unified police service would endanger liberty or facilitate the overthrow of lawful government.

148. That is one side of the argument. On the other side must be set the fact that most of those who work the present system regard it as basically sound. It has not failed, and its development under the guidance of the central departments has achieved much that is of the highest quality. The advantages of local administration by lay persons familiar with the character and needs of the communities they live in are important, and tribute was paid to its value by representatives of both the local authorities and the police. Moreover, the trend towards enhanced authority in the central departments continues, and there is scope for re-adjusting the present balance of responsibility for the police without doing violence to the idea of partnership between central and local government for their administration.

149. Our conclusion is that the police forces of this country should not be brought under the direct central control of the Government. In our view the improvements which the advocates of such a change wish to see can be achieved without seriously disturbing the local basis on which the present police system rests, and thus sacrificing much that is valuable. In the next two chapters we make recommendations designed to this end. They are grounded upon the reality of the present practice, and their effect is formally to assign greater responsibility for the efficiency of the police to Your Majesty's Secretaries of State.

150. In reaching this conclusion we have borne in mind that it is in the tradition of this country to allow institutions to evolve and change gradually, encouraged, guided and supported by public opinion. We think that this tradition is sound, particularly in relation to the police. In our interim report we stressed the importance of the morale of the police service. It is a service composed of men and women whose work involves them in constant personal relations with their fellow citizens. The evidence before

us shows that these relations are at present good; and we think that they can best be maintained by accelerating the pace at which the police service moves towards greater unity, rather than by any abrupt and radical change which might not be readily understood.

151. It follows from this conclusion that we make no recommendation to alter the present legal status of the chief constable—a matter which we left over from the last chapter. As the chief officer of a local police force he should in our view continue to possess the status defined by the courts, and not that of a Crown or a local authority servant. But his conduct and efficiency in his office should be subject to control and supervision in ways which we proceed to discuss.

CHAPTER VI

THE POLICE AUTHORITY

152. The diversity which characterises the police system is nowhere more apparent than in the variety in composition and functions of police authorities. There are five or six different types. In the Metropolitan force the police authority is the Home Secretary, and in the City of London it is the Common Council of the City. In English and Welsh counties it is the standing joint committee, a body composed of equal numbers of elected councillors nominated by the county council and justices of the peace elected by quarter sessions. In the cities and boroughs of England and Wales the police authority is the watch committee, a body composed of not more than one-third of the council. In Scotland the police authority is the county or burgh council itself. Where police forces have been combined the police authority consists, in England and Wales, of an *ad hoc* body, which generally, but not invariably, contains representatives of the local authorities whose forces have been combined; in Scotland the executive authority is also an *ad hoc* body, but in this case the local authorities retain the title of "police authority".

153. The present functions of police authorities are not clearly defined by statute, and the recommendations in this chapter are designed to clarify their rôle and to deal with their composition.

General functions of police authorities

154. A police authority, in our opinion, ought to have four main duties. The first is to provide an adequate police force for its area, properly paid, equipped, housed and administered. The second is to constitute a body of citizens concerned with the local standing and well-being of the police, interested in the maintenance of law and order, and able to give advice and guidance to a chief constable about local problems. The third is to appoint, and if necessary discipline or remove, the senior officers of the force. The fourth is to play an active rôle in fostering good relations between the police and the public.

155. The evidence before us, including that of chief constables, is that police authorities carry out the first of these purposes properly: they make as ample provision for the police as they reasonably can. During the post-war housing shortage many authorities secured high priority for police accommodation. A legacy of antiquated and unsatisfactory police stations and headquarters remains, and with limited resources available for capital investment in this as in other services some years must elapse before police building throughout the country achieves uniformly high standards; but there is generally no lack of intention. Nor have we any reason to think that the equipment provided for the police is indicative of parsimony in any significant number of cases. The Police Federation[1] expressed to us the opinion that the financial control exercised by some police authorities, concerned with the

[1] Minutes of Evidence 18, page 1026–7.

level of the local rate rather than the policing of their area, may put a brake on proper development. The weight of the evidence does not support this view.

156. It is not useful to try to define precisely what is "adequate" provision for the police. In the nature of things there is a good deal of discussion between a police authority and a chief constable, and perhaps the chairman of a finance committee, when police estimates are being settled. Moreover, the police resources required in one area may not be the same as those required in another. Local circumstances, the incidence of crime, geography and the density of population must all be taken into account. We do not therefore think that any rigid formula can be usefully employed to determine police requirements in manpower or equipment. But there are certain minimum standards which clearly ought to be adopted. Already the Secretaries of State have power to approve the numbers of police in a force. Recently, as we said in our interim report, this power has sometimes been used as a brake upon the expansion of forces rather than as a means of encouraging their development; and we recommended that existing establishments be reviewed to ensure that they provide for adequate police protection.(2) We are confident that any police authority which made no effort to provide for an adequate establishment for its force would be compelled to do so by the Secretary of State. As regards the professional requirements of the police, we describe in the next chapter new central arrangements, the provision of which we regard as urgently necessary, for developing modern methods of policing and items of equipment. Again it is implicit in our proposals that the financial estimates of police authorities will be adequate to ensure that their forces are constantly kept up-to-date, and that local authorities will make suitable provision for this purpose.

157. We referred earlier in our report to the differing interpretations put before us as to the extent of a police authority's responsibility for the efficiency of its police force and, in the phrase used in the Police (Grant) Orders, for the "efficient policing of the area". We also described in the last chapter the awkward dilemma in which these statutory provisions may place a police authority. If it purports to give instructions to its chief constable, even stopping short of interfering with law enforcement, it may well be going too far; if, on the other hand, it fails to take timely action against an ineffective chief constable (and it is difficult to see how such action can avoid the giving of instructions or at least advice) it may be failing in the purpose for which it was appointed. The police authority's task is rendered yet more difficult by the inadequacy of liaison between police authorities and inspectors of constabulary. The reports of Your Majesty's inspectors are submitted to the Secretary of State. If they reflect adversely on the functions of a police authority, the authority's attention is normally drawn to the alleged shortcomings. But it is not the practice to acquaint a police authority with the nature of the remainder of the report. In these circumstances the Association of Municipal Corporations asked us to recommend that the Home Office should give police authorities an account of inspections, and that arrangements should be made for formal consultation about the state of police forces between inspectors and members of watch

(2) Cmnd. 1222, paragraphs 69–71.

committees.[3] The Magistrates' Association suggested that the inspectors' reports should always be sent to the police authorities concerned.[4]

158. We do not think that these proposals meet the situation. The difficulties are inherent in the principles which underlie the present system, and what is required, in our view, is a modification of principle, not of machinery. There are at present overlapping responsibilities; and there is an inertia thus resident in the system which acts against the public interest.[5] It is necessary in our opinion to put an end to the anomaly that a police authority appears to have responsibilities for the efficient policing of its area, yet has no technical competence in the matter and no adequate system of inspection.

159. To rationalise this situation we recommend that police authorities be relieved of any legal responsibility they may have for the efficient policing of the area. An authority will continue to be responsible for the proper provision of manpower, equipment and buildings and for the appointment of proper persons to be the chief constable, deputy chief constable and, where appropriate, assistant chief constable of the force. Failure in any of these duties would, as now, endanger payment of the police grant.

160. We discuss the functions of the inspectors of constabulary in the next chapter, but it will be convenient here to set out our views about their relations with police authorities under the role which we propose for the police authority. It might be inappropriate for the whole of the inspector's reports to be made available to it. We recommend, however, that the inspector always meet the chairman and members of the authority during the course of an official inspection and discuss with them matters for which the authority is legally responsible. At such meetings the general state of the force would, naturally, be reviewed. To the extent that this is not already done, we also recommend that the Home Department draw the attention of the police authority formally to all matters concerning its responsibilities which may come to the inspector's attention. We think that arrangements of this kind will meet the legitimate concern of police authorities to know what opinion the inspector has formed of their forces.

161. A clarification on the foregoing lines of the duties of a police authority will remove the present uncertainty in the relations between the authority and its chief constable, while leaving the authority's present powers substantially unchanged. The most important of these is the annual duty to make financial provision appropriate to the scale of policing, having regard to other demands on a local authority's resources. We recommend that the principle of sharing the cost of the police equally between the rates and the Exchequer be maintained. It is in our view entirely appropriate that locally elected people should be responsible for settling the amount to be raised locally and that, subject to any requirements of the Secretary of State, they should have a voice in determining the size of the force, and the scale on which it is equipped and the manner

(3) Minutes of Evidence 11–12, page 631.
(4) Minutes of Evidence 14, page 793.
(5) An instance was brought to our attention in which the continuance in office for eight years of a chief constable known by both the police authority and the Home Office to be ineffective was tolerated because each party waited for the other to act and neither was confident of the support of the other.

in which it is housed. The financial responsibilities of a police authority involve much routine in arranging, for example, contracts for the erection and maintenance of police buildings and in making provision for police training. But there is scope for an enlightened police authority to exercise considerable initiative in promoting the well-being of the police, and in giving financial backing to the imaginative proposals of a chief constable, particularly in the field of training.

The police authority as an advisory body

162. We turn now to the second important function of a police authority —to constitute a body of citizens concerned with the local standing and well-being of the police, interested in the maintenance of law and order, and able to give advice and guidance to a chief constable on local problems. Already there is much informal consultation between chief constables and police authorities, for the authority needs to have a thorough grasp of police problems if it is to give proper consideration to proposals for changes in the establishment of a force, and for the supply of vehicles and equipment. It should be the duty of both parties to see that consultation is close and continuous.

163. There is at present a general understanding between police authorities and chief constables about the limits to which discussion of police affairs can properly go, and a general acceptance that within these limits discussion is valuable to both sides. It was suggested to us by some witnesses that arrangements for this purpose should be put on a more formal basis, and that the concern of a police authority with problems of law and order should be unequivocally recognised. Although, for the reasons we have set out in paragraphs 157-158, we do not think it either necessary or desirable that police authorities should have legal responsibility for the efficient policing of the area, we regard them as entirely suitable bodies to give advice to chief constables on general questions of policing. To enable them to carry out this function effectively, we recommend that arrangements be introduced in England and Wales on the lines of the provision in section 34 of the Police (Scotland) Act, 1956, which enables a police authority to call for reports from its chief constable. It is already the practice in many places for chief constables to make reports to police authorities, often in response, for example, to a petition from the residents of a particular locality urging that police protection should be increased, or that police activities should be directed against a prevalent type of offence. The police authority is well placed to bring such opinions to the attention of the chief constable, and we do not think that any reasonable chief constable would refuse to report on such matters. However, in order to protect a chief constable from improper or ill-judged requests for reports on police activities concerned with law enforcement we recommend that he be entitled to refuse a request for a report, subject to a determination of the matter by the Secretary of State.

164. Section 34 of the Police (Scotland) Act, 1956, requires every chief constable in Scotland to submit to the police authority an annual report on the policing of the area, and to send copies of the report to the Secretary of State and other authorities. It is also a common practice for chief constables in England and Wales to submit annual reports to police

authorities, but there is no statutory requirement that they should do so. These reports vary greatly in quality, form and scope. There is good reason to encourage originality in thought and approach, but at present some reports tend to be obscure and unhelpful and the lack of uniformity in their contents materially reduces their value in providing the Secretaries of State with an overall picture of the police service. We therefore recommend that chief constables in England and Wales be required to submit to police authorities annual reports on the policing of their areas; and, as regards both England and Wales and Scotland, that the form and scope of annual reports to police authorities be guided by regulation. We further recommend that the reports contain statistical information, including information about complaints against the police, compiled on a uniform basis.

165. We are attracted by a suggestion of the Association of Municipal Corporations that the right should be recognised of a member of a council to ask questions of the chairman of a police authority, on the understanding that he would be under no obligation to reply if to do so would be contrary to law or the public interest.(6) Again, this is already the practice in some places, and it entirely accords with our view that local problems of law and order should be the concern of local people. Such an arrangement would not, however, work easily in a combined authority.

166. Reports submitted to police authorities, other than annual reports, should be regarded as confidential to the authority. Moreover, the authority's role cannot, under the arrangements which we propose, extend beyond the giving of advice; and it will not be entitled to give orders or instructions to a chief constable on matters connected with policing. Thus the relationship between a police authority and its chief constable will in this field differ from that between other council committees and their chief officers. In the latter case the role of the official is to advise the committee and to implement its decisions on matters of policy; but the decisions themselves are the responsibility of the elected body. In the case of the police these positions will be reversed. The rôle of the police authority will be to advise the chief constable on general matters connected with the policing of the area; but decisions will be the responsibility of the chief constable alone. However, the lack of local control which this relationship implies will be offset by increasing a chief constable's accountability for his actions, and also by improvements in the cohesion of separate police forces, in ways we discuss in the next chapter, designed to make the police function more effectively as a national body.

The police authority's rôle in appointing chief constables, deputy chief constables and assistant chief constables

167. We now come to the third of a police authority's main functions. In this and the following section we deal with the authority's powers in relation to the appointment, discipline and removal from office of the senior officers of the force; and we conclude this part of our description of the rôle of the police authority with a further section, the purpose of which is to recommend that the present powers of watch committees in

(6) Minutes of Evidence 11–12, page 632.

relation to the appointment, promotion and discipline of police officers of subordinate rank be transferred to chief constables.

168. The approval of the Secretary of State is required to the appointment of a chief constable.(7) The practice is for a police authority to advertise the vacancy, following which there is generally informal consultation with officials in the Home Department about the applicants. The police authority draws up a short list of candidates whom it proposes to interview, and at this stage the Department indicates who among these would be approved by the Secretary of State and who are regarded as unsuitable, with possibly a third category of candidates to whom, it is stated, there would be difficulty in giving approval. The Department may also suggest the names of additional persons who might be suitable for the appointment. These arrangements have sometimes given rise to difficulty for two reasons: because a police authority has insisted, in spite of informal advice from the Department, on placing a local man, with his entire service in the same force, upon the short list; or because of the uncertainty implied by the Department in expressing a view that the Minister would have "difficulty" in approving a particular candidate. When disputes have arisen they have occasionally led to the threat to withhold the police grant, on the ground that a force without an approved chief constable cannot be regarded as efficient.

169. It has been the stated policy during the last few years that the Secretaries of State will not approve local candidates with all their service in the force to which they seek appointment as chief constable, unless such candidates possess outstanding merit. We think that this policy is sound, but it occasionally gives rise to trouble because of the wish of a police authority, with understandable and commendable loyalty to an able officer with long service, to consider him along with others for the vacant post. The occasional exceptions to the stated policy aggravate these difficulties, for they make its operation invidious; and it was suggested to us that it would be preferable for the rule of no local appointments to be firmly adhered to without exception. We do not think that it would be practicable to make this change without due notice. We recommend, however, that seven years from now a rule be introduced that a period of recent service in another force be made a condition of appointment as a chief constable.

170. We do not recommend any change in the principle that a police authority should be responsible for appointing its chief constable, subject to the approval of the Secretary of State; but in the next chapter we propose some procedural changes designed to remove the sources of uncertainty and embarrassment to which we have referred.

171. The deputy chief constable holds an appointment and not a rank. In a large force the deputy has the rank of assistant chief constable, but in a small force he may be a superintendent or even an inspector. The deputy chief constable in English and Welsh boroughs is appointed by the police authority; elsewhere he is appointed by the chief constable with the approval of the police authority. As the deputy is required to take charge of the force in the chief constable's absence, we think it is right

(7) Police Regulations, 1952, regulation 6; Police (Scotland) Act, 1956, section 6 (1).

in principle that he should be appointed by the police authority after consultation with the chief constable. We further recommend that the appointment of a person to be deputy chief constable be subject to the approval of the Secretary of State.

172. We recommend the same arrangements for the appointment of assistant chief constables[8]. Most officers of this rank are, in fact, deputy chief constables; and it would be pointless to place the appointment of the deputy in the hands of the police authority while leaving the chief constable to appoint to the one post from which, in the larger forces, the deputy could be found. Moreover the post of assistant chief constable is often a stepping stone to a chief constableship in another force, and it is essential that persons appointed to these posts should be selected from the widest possible field, so as to ensure that they are filled by the best men available. In all cases, therefore, appointment should be by the police authority after consultation with the chief constable, and it should be subject to the approval of the Secretary of State.

The police authority's rôle in removing chief constables, deputy chief constables and assistant chief constables from office

173. A police authority may have occasion to remove a chief constable from office on one or other of two grounds: on account of his personal conduct, or because he has ceased to be effective and no longer enjoys its confidence in his ability to command the force properly.

174. Removal from office on the first of these grounds, namely when the chief constable's personal conduct is in question, may be effected under discipline regulations applicable to chief constables[9] or, in England and Wales but not in Scotland, under the Municipal Corporations Act, 1882, and the County Police Act, 1839, as regards boroughs and counties respectively.

175. The discipline regulations enable the police authority, after investigation of allegations that a chief constable has committed an offence against discipline,[10] to impose a punishment of dismissal, requirement to resign or reprimand. Provision is also made for an appeal by the chief constable to the Secretary of State against the two more serious punishments;[11] and the regulations permit a chief constable to be suspended from office pending the hearing of a charge against him. These arrangements appear to us to strike a satisfactory balance between the interests of the police authority and those of the chief constable, and we make no recommendation to alter them except in one particular. The procedure laid down in England and Wales for hearing a case against a chief constable provides that a police authority may arrange for the case to be heard, and for a report to be submitted, by a tribunal consisting either of a person selected by the

(8) Not every force has an assistant chief constable. The rank is authorised only for a force numbering 400 upwards. There are at present 51 such forces in England and Wales and four in Scotland.

(9) The Police Discipline (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) Regulations, 1952 and the Police (Discipline) (Scotland) Regulations, 1952 (S.I. 1706 and 1356 respectively).

(10) An offence against discipline is any offence in the Discipline Code as set out in the first schedule to the Police (Discipline) Regulations, 1952 or, in Scotland, to the Police (Discipline) (Scotland) Regulations, 1952 (S.I. 1705 and 1356 respectively.)

(11) The Police (Appeals) Act, 1927.

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authority from a list of persons nominated by the Lord Chief Justice, or of not more than five members of the police authority itself. We do not think it appropriate that members of the police authority should form a tribunal for this purpose. We accordingly recommend that this alternative provision be repealed. With this amendment the discipline regulations relating to chief constables should protect their interests adequately and provide reasonable safeguards against improper dismissal. At the same time the offences prescribed are, in our opinion, so broadly defined as to enable a police authority to take action on any proper occasion.([12])

176. We have considered, on this basis, a request by the chief constables of England and Wales that the additional powers of dismissal contained in the County Police Act, 1839, and of suspension and dismissal contained in the Municipal Corporations Act, 1882, should be repealed.([13]) The argument for their repeal is, broadly, that the modern discipline regulations provide a satisfactory disciplinary procedure which covers, or could be made to cover, any circumstances in which it is reasonable to consider the suspension or dismissal of a senior police officer; and that these later provisions incorporate safeguards for the rights of police officers which are lacking where resort is made to the Acts of 1839 and 1882. The case for retaining these old powers is that the discipline code was drafted with the lower ranks in mind, and not many of the offences which it describes are suitable bases for a charge against a chief constable; and that the retention of a reserve power to suspend or dismiss is a useful safeguard. The officer is protected from the consequences of unreasonable dismissal by the existence of a right of appeal to the Secretary of State under the Police (Appeals) Act. On balance we think that the position in this respect in England and Wales should be brought into line with that in Scotland. We accordingly recommend that the 19th century statutory provisions which enable a police authority to suspend or dismiss a chief constable be repealed.

177. So far we have dealt only with measures to secure the removal of a chief constable whose personal conduct is in question, and these measures are in the first place a matter for the police authority and only secondarily, in the event of an appeal, for the Secretary of State. Under the present arrangements the initiative in removing a chief constable on the other ground which we distinguished above—inefficiency—also lies with the police authority. This situation requires to be examined in the light of our redefinition of the authority's rôle.

178. Three possibilities have to be considered. A chief constable might be inefficient in carrying out duties on behalf of a police authority for which the authority itself, and not the chief constable, is responsible; or he might be inefficient in the way in which he commands his force—a matter

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([12]) Thus the Discipline Code provides against "discreditable conduct" in the following terms: "... that is to say, if a member of a police force acts in a disorderly manner or any manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the force or of the police service".

([13]) "... Every chief constable ... may hold his office until dismissed by the standing joint committee" (County Police Act, 1839, s. 4, as read with the Local Government Act, 1888, s. 9 (1)). "The watch committee, or any two justices having jurisdiction in the borough, may at any time suspend, and the watch committee may at any time dismiss, any borough constable whom they think negligent in the discharge of his duty, or otherwise unfit for the same". (Municipal Corporations Act, 1882, s. 191 (4).) An additional power of suspension is contained in section 26 of the County and Borough Police Act, 1859.

for which he is responsible; or, and this is perhaps the most likely situation, he might show a general decline in efficiency over the whole range of his duties so that he was merely "soldiering on".

179. Examples of inefficiency under the first head might be evidence of bias or lack of regard for economy in the allocation of police houses, unconcern about the state of police headquarters, wasteful administrative methods or general resistance to change. Such conduct would not appropriately be met by disciplinary action, but it is clearly desirable that a police authority should have power to deal with it. Regulation 52 of the Police Pensions Regulations, 1955, and of the Police Pensions (Scotland) Regulations, 1955,([14]) enables an authority to require an officer of any rank to retire if his retention in the force is not in the general interests of efficiency and if he is entitled to receive a full pension—i.e. if he has had thirty years' service. We are not aware that this regulation has been used in relation to chief constables. The Association of Municipal Corporations thought, in any case, that it was inappropriate, since a chief constable could not be retired under its provisions unless the authority passed a resolution referring to inefficiency, which would attract undesirable publicity; and to require that he should be entitled to full pension was unduly restrictive. They therefore recommended that an authority should be able to deal with such a case without passing a resolution calling into question a chief constable's efficiency, that an officer might be required to retire before he was entitled to the maximum pension, and that he be given a right of appeal to the Secretary of State; or alternatively, that exercise of the power be subject to the approval of the Secretary of State, with an opportunity for the officer to make representations to him.([15])

180. We agree generally with this view and recommend that arrangements on these lines be introduced to enable a police authority to retire a chief constable in whom it has lost confidence. There is ample precedent for schemes of this kind elsewhere in the public service. We also think it preferable that action by the police authority should be subject to the approval of the Secretary of State, rather than that a chief constable should have a right of appeal to him. We further recommend that the arrangements be made the subject of a specific statutory provision and not be left within the scope of the Police Pensions Regulations. On this basis Regulation 52 should be revoked in its application to chief constables.

181. The other main field in which inefficiency can occur, as has been stated, is that of a chief constable's command over his force, or of his enforcement of the law. Under the arrangements which we propose, this will be primarily the concern of the Secretary of State, whose powers in this regard we discuss in the next chapter. We recommend, however, that the mechanism of removal should always be operated through the police authority, although the decision whether to operate it or not would in these circumstances be for the Secretary of State. In practice we should expect an understanding to be established that a police authority, with its close interest in the local standing and well-being of the force and in the maintenance of law and order, might properly take an initiative in making representations to an inspector of constabulary, or to the Department, if it

([14]) S.I. 1955/480 and 485.
([15]) Minutes of Evidence 11–12, page 636.

had reason to think that a chief constable was doubtfully efficient in this part of his duties. Certainly any action should be preceded by consultation between the authority and the Department.

182. Under the arrangements which we propose, the powers of the Secretary of State would be limited to requesting a police authority to retire an inefficient chief constable. Refusal to comply with such a request would, however, endanger payment of the police grant, since the police authority would then be continuing in office a chief constable from whom the Secretary of State had withdrawn his approval.

183. So far we have discussed the arrangements for removing chief constables from office. In our view the same considerations should apply to the removal from office of deputy and assistant chief constables.

184. At present the disciplinary authority for deputy and assistant chief constables throughout Scotland, and also in the English and Welsh boroughs, is the police authority; but in county and combined forces in England and Wales the disciplinary authority is the chief constable. The Oaksey Committee recommended[16] that in all cases the police authority, and not the chief constable, be the disciplinary authority for assistant and deputy chief constables. They held the view, with which we agree, that the chief constable is too closely associated with the men holding these posts to enable him to feel satisfied that he can always act with complete impartiality in disciplinary matters concerning them. We accordingly recommend that the police authority be the disciplinary authority for deputy and assistant chief constables in county and combined forces in England and Wales, thus making the pattern uniform throughout the country.

185. We also recommend that the changes in the law which we have proposed in paragraphs 175-180 as regards the discipline and removal from office of chief constables be applied to deputy and assistant chief constables. The effect of this will be that a charge against such an officer will not be heard by a tribunal consisting of members of a police authority; that a police authority will cease to have power to suspend or dismiss a deputy or assistant chief constable except under the discipline regulations; and that statutory provision will be made for the compulsory retirement of a deputy or assistant chief constable on the ground of inefficiency to be made subject to the approval of the Secretary of State.

The police authority's rôle in relation to the appointment, promotion, discipline and removal from office of subordinate ranks[17]

186. Apart from the foregoing proposals in relation to senior officers we do not think it appropriate that police authorities should have powers relating to the appointment, promotion and discipline of the police. Some 70 per cent. of police officers serve in forces where these powers are vested in chief constables; and only about 30 per cent., namely those in county borough forces in England and Wales, serve in forces where the authority

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(16) Cmd. 7831, paragraph 261.

(17) i.e. police officers other than chief constables, deputy chief constables and assistant chief constables.

responsible for appointment, promotion and discipline is the watch committee. The Desborough Committee recommended, as long ago as 1919, that these powers be in the hands of the chief constable in all forces, and the Oaksey Committee, reporting in 1949, endorsed this view.

187. As regards discipline, the Oaksey Committee commented—

> "The police are a disciplined body and discipline is almost always safer in the hands of an expert individual than in those of a lay committee. No commanding officer can exercise proper authority in matters of internal administration if he has continually to share that authority with a committee, particularly an elected body subject inevitably to local pressures and prejudices".

Similarly they observed that selection for promotion was not a function which police authorities should expect to perform, and they recommended that this, too, should be in the hands of chief constables. They commented—

> "The chief constable and the officers who advise him see the men at work, and they alone can have a sufficiently intimate knowledge of the merits of the different candidates to decide who should be selected for promotion".

Appointment they regarded as largely a formal matter which was, in any case, in practice generally left to the chief constable.([18])

188. We do not think that any further continuance of this anomaly as between the English and Welsh county borough forces and all other police forces in Great Britain is justified; and we have been surprised to discover that earlier recommendations on this matter have not been adopted. We accordingly strongly urge that the powers of watch committees in relation to the appointment, promotion and discipline of subordinate ranks be now transferred to chief constables. We further recommend that watch committees cease to have any appellate function in regard to discipline.

189. This recommendation will not touch a police authority's powers under Regulation 52 of the Police Pension Regulations to retire an officer([19]) in the interests of the efficiency of the force provided he is entitled to the maximum pension, since this power is not related to discipline. We think that this power should continue to lie with a police authority, since it is the authority which has to bear the cost of the pension of a retired police officer. But we recommend that the power be exercisable only with the approval of the Secretary of State. In our interim report we referred to evidence that Regulation 52 was being applied systematically in some forces with the object of creating a promotion flow and without regard to the overriding need to retain officers for the maximum service of which they are usefully capable. We commented that we should not expect this regulation to be used arbitrarily as if it were of universal application.([20]) Further evidence that the regulation is being used in some areas for this purpose has come to our notice during the preparation of this report. We

([18]) Cmd. 7831, paragraphs 185, 198 and 222.
([19]) Other than a chief constable or a deputy or assistant chief constable—see paragraphs 180 and 185.
([20]) Cmnd. 1222, paragraph 112.

regard this as an entirely improper use of the regulation, and we recommend that the Secretaries of State give instructions to police authorities that the regulation is not to be applied as a standing rule to provide for the automatic retirement of officers in the sole interests of promotion policy.

190. It is our intention that, under the foregoing proposals, the discipline of subordinate ranks should in every case be the concern of the chief constable and not the police authority. The residual powers of suspension and dismissal conferred on watch committees by section 26 of the County and Borough Police Act, 1859, and on watch committees or justices by section 191 (4) of the Municipal Corporations Act, 1882, should accordingly be repealed in their application to subordinate ranks.([21]) The chief constables told us, however, that these provisions have still a certain usefulness in making it possible to suspend a man who has committed a serious offence in such a way as to prevent him from resigning to avoid disciplinary action and dismissal,([22]) since suspension from duty under the discipline regulations does not have this effect. We accept that a power of this kind may have value and we recommend that the discipline regulations be reviewed to take account of this point.

191. It remains, before discussing the relations of the police authority with the local authority and the composition of police authorities, to deal with a further responsibility which we think should be transferred from police authorities to chief constables; and to develop reasons for our proposal, mentioned in Chapter IV, to make police authorities vicariously liable for the wrongful acts of police officers.

Police cadets

192. It was represented to us by police witnesses that responsibility for appointing cadets should be transferred from police authorities to chief constables.

193. The present arrangements are a logical consequence of the legal position that only a constable can be a member of a police force. Cadets, who are trainees and have not yet been appointed to the office of constable, have the status of local government employees. In some forces this status is reflected in the persistence of the old titles "cadet clerk" and "boy clerk", and it may even occasionally be seen in the range of their duties. We understand also that, because of this status, cadets do not enjoy standard rates of pay or conditions of service throughout the country. In some areas police authorities appear to play an active part in enrolling boys for cadet service, with the result that some of those selected are not acceptable to the chief constable.

194. It is in our view important, at a time when increasing reliance is being placed on the cadet system as a source of recruitment to the police, that cadets should enjoy a proper standing as junior members of the police force, with national rates of pay and conditions of service. It is equally important that they should be placed more directly under the supervision of the chief constable, who is obviously the right person to be in charge of their selection, training and discipline. We therefore recommend that

([21]) We have already recommended the repeal of the 19th century provisions which enable a police authority to suspend or dismiss a chief constable, deputy chief constable or assistant chief constable. (Paragraphs 176 and 185.)

([22]) Minutes of Evidence 15, page 861.

the present status of cadets be reconsidered with a view to giving chief constables control over them.

Support of police officers in legal proceedings

195. There is a fresh responsibility which we think should be placed upon a police authority. It should, in our view, be liable for tortious acts, or delicts, committed by a police officer in the course of his duty as a constable, or in the intended execution of such duty. This proposal represents a significant departure from the present position which, as we indicated in Chapter IV, was affirmed by the decision in *Fisher* v. *Oldham Corporation* and other cases.

196. At present, because a constable is not a servant of the police authority, the latter cannot be made liable for his wrongful acts. Consequently an injured plaintiff has to rely on his right of action against the constable alone. To enable a plaintiff to recover any sum awarded by the court, and also to encourage the police to carry out their duties confidently, officers are assured that public funds will, in certain conditions, be made available to meet damages and costs awarded in civil proceedings. These conditions were considered by a committee of the Police Council in 1931 and by the Oaksey Committee. The current practice is as follows:—

(*a*) A constable must have acted in good faith in the intended execution of his duty.

(*b*) The sums in question (so far as not fixed by the court) must be reasonable and, in the case of costs, necessarily incurred.

(*c*) The likely effect on discipline if payment were denied is considered.

(*d*) Following a recommendation of the Oaksey Committee it is a common, although not the invariable, practice for a police authority, following an application by a constable, to consider the question of meeting damages and costs when proceedings are begun and not after the case has been heard and decided. This practice is universal in Scotland.

(*e*) It is the practice for a police authority which is not satisfied that payment should be made to refer the matter to the Secretary of State.

197. Criminal proceedings against a constable are treated, in Scotland, in the same way as civil proceedings. In England and Wales a distinction is made between a private prosecution, in which the decision as to the support of a constable will be taken on the same basis as in the case of a civil action, and a public prosecution brought by the police or the Director of Public Prosecutions. Here the view is taken that, where a constable has been prosecuted and is acquitted, but without an award of costs, he ought not to be treated more favourably than any other member of the public; and it is exceptional for a constable who has been acquitted to have his costs paid by his police authority. We accept that the difference in practice between England and Wales and Scotland is grounded in the different prosecuting systems, and we make no recommendation to alter the practice in either country.

198. There was a strong body of opinion in favour of retaining the present arrangements relating to civil actions against the police. The local

authority associations and the Magistrates' Association regarded them as appropriate to the constitutional position of the constable *vis-à-vis* a police authority, and the police witnesses also told us that these arrangements give rise to no practical difficulties.([23]) The police witnesses asked us to recommend that all police authorities should follow the Scottish practice, by formally adopting the Oaksey Committee's recommendation that the question whether or not to support a constable should be decided as soon as proceedings were launched, and not after they were completed. The Police Federation also urged that there should now be set up a standing committee of the Police Council to consider cases referred to the Secretary of State, as was recommended by the 1931 Committee of the Police Council.([24])

199. The arguments used in defence of the present arrangements may be summarised as follows. They exactly reflect the legal status of the constable and the legitimate interests of the police authority, and they demonstrate to the public that a policeman enjoys no special protection. They also provide reasonable assurance of remedy for an injured party, while giving a constable confidence to carry out his duty properly without encouraging irresponsibility. Thus they strike a fair balance between the interests of the constable and of the public.

200. Against this we heard a body of evidence favouring an arrangement under which the police authority should be vicariously liable for the tortious acts of a constable. This view was argued by the Faculty of Advocates, the Sheriffs Substitute Association, the Inns of Court Conservative and Unionist Society and Professor Wade on the following grounds.([25]) Failure to identify a particular constable might preclude the bringing of an action, even though it was beyond doubt that a member of the constabulary was concerned ; thus a complainant would have no redress. Moreover, although there are few, if any, cases in which financial support has been unreasonably refused, the lack of certainty on this point may well have discouraged the bringing of well-grounded actions. It was also submitted that a police authority, in reserving to itself the decision whether or not a wrongful act had been done in the course of the constable's duty, was to some extent usurping the normal function of the court. If the decision were taken before the hearing it would be on inadequate information, and without detailed knowledge of the plaintiff's case. If the decision were taken after the proceedings has been concluded, both the constable and the injured party would be in doubt whether financial support was forthcoming, and how the police authority would exercise its discretion. Finally, it was represented to us that the doctrine of vicarious liability as dependent upon the ability of a master to give orders to his servants has been broadened by recent decisions of the courts. Thus the liability of a hospital management committee extends to the professional negligence of a doctor or surgeon in the health service—where no question of orders arises. On this basis it was suggested that a police authority might be made liable for the

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([23]) Minutes of Evidence 11–12, page 636; 14, page 791; 25, pages 1351–2.
([24]) Minutes of Evidence 18, page 1033.
([25]) Minutes of Evidence 11–12, page 696; 25, pages 1351–2; Appendix II to Minutes of Evidence, page 106.

acts of a constable without implying any alteration in the constable's legal status.[26]

201. We have already stated our view that the present legal status of the constable should continue, and it would be wrong to introduce any change in his liability which would interfere with it. We are satisfied, however, that to make a police authority vicariously liable for a constable's actions would not derogate from this status; nor would it confer any power upon a police authority to control his duties. It appears to us that there are good reasons for making this change, and that to alter the present arrangement would be to the advantage of both the police and the public. In particular, we are impressed by the argument that, where a particular constable complained of is not identifiable, a member of the public is at present unable to pursue a legal remedy. We recommend, therefore, that a police authority be made liable for the wrongful acts of police officers in the same way as the Crown is liable, under the Crown Proceedings Act, 1947, for the wrongful acts of an officer of the Crown.

202. On this basis it would no longer be for the police authority to determine whether the constable complained of had acted in the course of his duty or in the intended execution of his duty. This question would be decided by the courts. Normally we should expect proceedings to be brought against the constable and the authority jointly. If the court found that the matter complained of had not arisen in the course of or in the intended execution of duty, the action could succeed against the constable alone, and the police authority would not be liable. It would accord with the spirit and intention of this recommendation that a chief officer of police should in the absence of special circumstances disclose the names of men on duty on a particular occasion so as to enable an aggrieved person more easily to identify a police officer against whom he wishes to seek a legal remedy.

Relations between the police authority and the council in England and Wales[27]

203. Although there was no concluded agreement, discussions had been proceeding for some time before our appointment between the County Councils Association and the Magistrates' Association about changes in the functions of the standing joint committee, and in its relationship to the county council. It was accepted by both bodies that the county council should have financial control in the county, as the borough council has in the borough; that the county council should become the police authority; and that it should be required to appoint a police committee composed as to one-half of its membership of justices. County councils also agreed that they should be under a statutory obligation to delegate responsibility for police administration, other than financial control, to the re-constituted standing joint committee.

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[26] Another suggestion put to us was that liability should attach to a chief constable for the tortious acts of his subordinates. We think that such an arrangement is open to objection. Nor do we favour a proposal submitted to us by the Law Society that a fund should be established under the Crown from which damages awarded against a constable should be paid.

[27] In this and the two following sections we are not concerned with combined authorities. These are discussed in paragraphs 218–221.

204. In their submission to us the County Councils Association invited us to endorse this agreement, but representatives of some counties([28]) dissented from the proposals in this form. In particular, they expressed misgivings about the wisdom of placing a county council in a position to put political or other pressure on the police. Thus the Berkshire County Council submitted: "It is more important that the independence of the police should be safeguarded than that financial saving should be achieved by granting financial control to county councils and thus sacrificing such independence".([29]) And a memorandum from the Essex County Council was even more specific—

> "In a county such as Essex, where political persuasions are of some considerable consequence in the county council, it is of the utmost importance that there should be no opportunity for allegations to be made that the administration of the force is subject to political influence. It is not enough that such allegations could easily be refuted; it is in the public interest that the very opportunity for their being made should not be available and this can only be achieved by the maintenance of the *status quo ante* whereby the administration of the police not merely is, but can be seen to be, in control independent of the county council".([30])

205. We understand these misgivings, but experience in Scotland and in the English and Welsh boroughs suggests that they are groundless. We see no reason, therefore, to continue the arrangement under which a standing joint committee, alone among uncombined police authorities, precepts upon the council. We accordingly recommend that the standing joint committee submit estimates of police expenditure for approval, in the same way as any other committee of the council.

206. We received no evidence favouring any change in the relationships between other police authorities and the councils by which they are appointed, and we make no recommendation to alter them, except for recognition of a qualified right for a member of a council to ask questions of the chairman of a police committee.([31])

Composition of police authorities in England and Wales

207. The reasons for the difference in the constitution of standing joint committees and watch committees are historical, and we think that the time has come to assimilate the two.

208. We have considered what is the appropriate composition for an authority with the functions we propose. A body associated with local government ought clearly to contain elected councillors. Witnesses were, however, divided about whether it should also contain outside persons, and in particular whether there was a case for continuing the long-standing arrangement under which justices are appointed to standing joint committees but not, unless a member happens to be a justice, to watch committees.

([28]) Berkshire, Cumberland, Essex, Gloucestershire, Hampshire and Isle of Wight, Hertfordshire, Leicestershire and Rutland, Lincolnshire (Parts of Kesteven and Parts of Lindsey), Norfolk, Oxfordshire, Staffordshire, Surrey, East Sussex, Warwickshire, Westmorland, Wiltshire, East Riding of Yorkshire.

([29]) Minutes of Evidence 20, page 1141.

([30]) Minutes of Evidence 20, page 1128.

([31]) See paragraph 165.

209. The Magistrates' Association argued that, at a time when decisions of local authorities are increasingly swayed by political views, it is particularly important that a body concerned with the police should contain non-elected persons; and the most appropriate people in their opinion were the magistrates, since their work brings them into close touch with police problems. They accordingly recommended that the composition of standing joint committees remain unaltered, and that magistrates also constitute one-half the members of watch committees.([32]) This view did not find favour with the Association of Municipal Corporations, who thought that it was inherently objectionable to associate the functions of the police with the administration of justice. Our own view is that this objection is theoretical rather than real, and that there are overriding advantages in enabling the experience of justices to be made available to police authorities.

210. Under the arrangements which we are proposing, with a clarifying definition of the respective rôles of the central government, the police authority and the chief constable, the argument that local political pressure might be brought to bear upon the police in such a way as to jeopardise impartiality in enforcing the law ceases to be tenable; and we regard locally elected persons as entirely fit and proper people to discharge the functions which we propose in future should be accorded to police authorities But we think that they can be greatly assisted in their tasks of enhancing the standing of the police force and appointing its senior officers by the inclusion in their number of a proportion of justices. Through their judicial work magistrates have a close knowledge of police affairs and problems, and they above all people see the fruits and nature of police work. They constitute a body of public-spirited citizens whose services cannot be enlisted through the normal machinery of local government; and the inclusion in the police authority of a quota from the magistracy widens the field of selection. We accordingly recommend that police authorities throughout England and Wales consist as to two-thirds of members of the appropriate council, and as to one-third of co-opted justices; and that the justices be elected in counties by quarter sessions and in boroughs by the local body of justices for automatic co-option to the police authority.

211. The size of a watch committee is limited, under section 190 (1) of the Municipal Corporations Act, 1882, to not more than one-third of the membership of the council as a whole, but there is no statutory provision as to the size of a standing joint committee. As a result, there are wide variations in the size of standing joint committees in different parts of the country. Thus Lincolnshire has a police authority of 15 members; Gloucestershire, a county with a slightly smaller population and less than half the area, has an authority of 56 members. We have considered whether the size of standing joint committees should be limited in the same way as that of watch committees. On balance we think this unwise, because the ideal membership of an authority may depend to some extent on the size and nature of its area, the difficulties encountered by members in attending meetings and possibly the amount of business to be transacted. We are however impressed with the disadvantages of large committees and

([32]) Minutes of Evidence 14, page 789.

we recommend that the size of all police authorities be reviewed with the object of restricting them to the smallest practicable number of persons.

212. We recommend that police authorities so constituted be committees of the local authority, and that their appointment be made obligatory by statute. We further recommend that the chairman of the police authority be a member of the local authority. We see no reason to abandon the present title of the police authority in county boroughs: the name Watch Committee has associations going back for many centuries. We recommend, however, that the police authority in a county be called the police committee rather than the Standing Joint Committee, which is a clumsy title of no great antiquity.

Police authorities in Scotland([33])

213. Different considerations arise in Scotland, where the police authority is the county or burgh council itself. This does not mean that in practice all police business is transacted in the full council; it is referred in the first instance to a police committee, as in most other fields of local authority work. But it does mean that all decisions of the police committee, whether in financial or other matters, must be ratified by the council. The police committee has no powers of its own, nor has it any legal standing. A consequence of these arrangements is that the local administration of the police is entirely in the hands of elected persons.

214. The Scottish system accords with the pattern found both in England and Wales and in Scotland in the administration of other local authority functions, such as education and housing, in which responsibility is vested in the local authority as such. We do not think, however, that this principle should hold in relation to the police. We therefore recommend that in future the police authority in Scotland be the police committee and not the council.

215. There are two particular considerations that have weighed with us in making this recommendation. In the first place, it seems likely that Scotland will increasingly be policed by combined forces covering the area of more than one local authority. In these cases an *ad hoc* committee is appropriate, and it seems unreasonable in such circumstances to adhere to the present practice of attaching the title of police authority to separate councils which have no police and little authority over a combined force. The title should be accorded where it properly belongs—to the joint committee.

216. The second consideration applies to all forces, not only those in joint areas, and introduces the question of the composition of police authorities. As already stated, we favour the inclusion of justices of the peace in both county and borough police authorities in England and Wales. We have considered whether a similar provision should apply in Scotland, but justices in Scotland are not so numerous as their counterparts in England and Wales, nor do they have the same wide judicial functions. Historically, moreover, they have not played so large a part in local government as the magistracy in England and Wales. Consequently we do not recommend the appointment to police authorities in Scotland of a

([33]) Other than combined police authorities, which are dealt with in paragraphs 218–221.

proportion of justices of the peace, and we accept that the police authority must be composed, as at present, wholly of elected councillors. We do not, however, regard the whole council as a suitable body to discuss and finally decide the important matters which arise in connection with the police. We accordingly recommend that statutory provision be made for the appointment of a committee of the local authority to be the police authority, and that the size of Scottish police authorities be reviewed, like those in England and Wales, with the object of restricting them to the smallest practicable number of persons.

217. The functions of police committees in Scotland should comprise all the matters for which, under our recommendations, police authorities will be responsible. These do not include financial control, and the police committee in Scotland will continue to submit estimates to the council, as at present. The functions of police authorities will then be uniform throughout Great Britain.

Combined police authorities

218. Where two or more local authority areas in England and Wales are amalgamated for police purposes the constituent authorities surrender all their police functions to a combined authority. This means that the individual councils have thereafter no say in the amount to be spent annually on the police, and must contribute their proportion of the cost as assessed in the amalgamation scheme. In Scotland the constituent councils at present remain police authorities, and may retain the right to challenge the estimates of the joint police committee, although this situation appears hardly ever to have arisen.

219. We recommend that the Scottish procedure in this matter be brought into line with that in England and Wales. It is the combined committee that should be the police authority, not the constituent councils. We also recommend that all combined police authorities have the right to precept or requisition upon their constituent councils. Combined authorities will thus form an exception to the general principle that police authorities should have to secure approval for their estimates from their rating authorities. We think that this is amply justified by convenience.

220. The constitution of joint authorities is not at present controlled by statute, but is left to be determined by agreement in the scheme of amalgamation. There is much to be said for this, but in our view there are two matters which ought now to be reviewed. The size of joint authorities should be restricted to the smallest practicable number of persons, and in England and Wales the proportion of co-opted justices of the peace should be the same as in individual authorities, namely one-third.

221. Although when a combined police area is formed in England and Wales a joint committee becomes the police authority, it is a common practice to maintain in being the individual standing joint or watch committees which were the police authorities before the amalgamation took place. These committees have no police functions apart from the duty of nominating some of their members to the combined police authority: they may, however, continue to exercise other minor local authority functions such as the control of house-to-house collections. The retention of these committees seems to us confusing and unnecessary. We therefore

recommend that they be abolished and their minor functions transferred to another committee of the council or to the justices.

The Metropolitan area

222. The police authority for the Metropolis is the Home Secretary, and local authorities play no part in the administration of the Metropolitan Police, although they contribute almost half of its costs. We heard little evidence critical of the general principle embodied in these arrangements.(34) Indeed a representative of the Metropolitan Boroughs told us that in the view of the Boroughs the present system should continue, however the local government structure might be re-organised.(35)

223. We accept that there are overriding advantages in a unitary system of control over the police in the Metropolis and also that, in view of the exceptional police responsibilities in London, control should be in the hands of the Government. The Government's proposals recently outlined for the re-organisation of local government in Greater London(36) should not, in our judgment, lead to any change in the Home Secretary's position as police authority for the Metropolis.

224. As we have shown, the relationship between the Home Secretary and the Commissioner of the Metropolitan Police is not the same as that between a provincial police authority and its chief constable. Through his function of approving the orders and regulations for the government of the Metropolitan Police, the Home Secretary exercises a direct control over the executive work and administrative policy of the force ;(37) and through the Receiver, he controls not only police housing and building and the supply of vehicles and equipment, but also such matters as research and development in mobility and communications, which would normally be considered in a provincial force to be the responsibility of the chief constable. Moreover, for the discharge of his responsibilities the Home Secretary is answerable to Parliament in a way that no police authority is accountable to its local council.

225. We consider that these differences between the control of the police in the Metropolis and elsewhere are broadly justified by the intrinsic importance and interest of events in London which call for police attention. Moreover, the status of the Home Secretary and the range of his functions in regard to the police service as a whole, and the fact of his answerability in Parliament, give sufficient assurance that his wide powers over the Metropolitan Police will be exercised wisely and with proper restraint—as, by common consent, they have been in the past.

226. Two criticisms were voiced in the evidence we heard about the arrangements for administering the Metropolitan force. One concerned the position of the Receiver and his dual rôle as finance officer for the Metropolitan Police, and also its adviser on research and technical development. It was suggested to us that the latter duty should be transferred to the Home Secretary, not as police authority for the Metropolis, but as

(34) One group of witnesses argued for a police authority consisting of representatives of the county and borough councils in the Metropolitan Police District.
(35) Minutes of Evidence 24, Q. 4579.
(36) Cmnd. 1562.
(37) Minutes of Evidence 20, page 1153.

the central authority for the police of England and Wales as a whole. We agree with this proposal, and return to it in the next chapter.

227. The second criticism related to the position of the local authorities, which contribute to the upkeep of the Metropolitan Police but have no control over their expenditure. Since 1949 an informal arrangement has been operated under which the Receiver meets the chief financial officers of these authorities as soon as possible after the Metropolitan Police estimates have been presented to Parliament, in order to discuss and answer questions about the policy and details of the proposed expenditure. The Metropolitan Boroughs Standing Joint Committee asked for an extension of this arrangement to allow for confidential consultation before the estimates are presented to Parliament and, in the event of disagreement, for an appeal by the local authorities to the Home Secretary against the Receiver's proposals.(38) We see little constitutional difficulty in this kind of consultation, which—provided it is kept confidential—can carry no risk of subverting the Home Secretary's jurisdiction. It might be objected that the proper place to challenge the police estimates is in Parliament, where the Home Secretary is publicly answerable. But, as we understand it, the machinery requested by the Metropolitan Boroughs is designed to provide a means, not of challenging the Home Secretary's policy in regard to the financing of the Metropolitan Police, but of influencing his mind before the policy is presented to Parliament. This seems to us an entirely acceptable objective and we accordingly recommend that arrangements be made, along the lines suggested, for consultation between the Receiver and representatives of the local authorities in the Metropolitan Police District.

The City of London

228. To the stranger it must appear odd that a square mile in the centre of the vast Metropolitan area should be policed separately from the rest, with a distinct police authority—the Common Council of the City—a lower rate of police grant than elsewhere, and a chief officer dignified by the title of Commissioner. The City of London has, however, an importance and position out of all relation to its size. In the field of policing its problems are unique and specialised. It has to contend with a daily influx of three-quarters of a million people; it has to protect some of the most valuable property in the world; and it has been forced to develop in a very high degree means of combating crime in technical fields, such as company frauds. We should hesitate to assert positively that these considerations necessarily call for a separate police authority or a separate police force. But all the evidence we have heard suggests that the arrangements for the policing of the City work well, and that there is entirely satisfactory co-operation with the Metropolitan Police. In the circumstances we make no recommendation for any change in these arrangements.

(38) Minutes of Evidence 24, page 1272.

CHAPTER VII

THE CENTRAL AUTHORITY

229. This chapter deals with the place of the central departments in the administration of the police. We describe additional responsibilities which we think should be assigned to Your Majesty's Secretaries of State, and the powers which they will require to discharge these responsibilities; and we discuss the manner in which these powers should be exercised so as to promote the efficiency of the police service.

Responsibilities of the Secretaries of State

230. We recommend that the Home Secretary and the Secretary of State for Scotland be made statutorily responsible for the efficiency of the police in England and Wales and in Scotland respectively. It has been a common feature of modern social legislation for Parliament to assign formal responsibility to Ministers for public services previously in the hands of local authorities or private undertakings. Thus section 1 of the Education Act, 1944, defines the Minister's duty as

> "to promote the education of the people of England and Wales .... and to secure the effective execution by local authorities, under his control and direction, of the national policy for providing a varied and comprehensive educational service in every area".(1)

Similarly section 1 of the Water Act, 1945, provides that the duty of the Minister shall be

> "to promote the conservation and proper use of water resources and the provision of water supplies in England and Wales and to secure the effective execution by water undertakers, under his control and direction, of a national policy relating to water".(2)

It would be inappropriate to assign to the Secretaries of State complete responsibility for the police service: it is implicit in our rejection of any arrangement under which the police should be placed under the control of the Government that Ministers cannot in our view be responsible for the acts of individual policemen or for the day-to-day enforcement of the law. Consequently the responsibility of the Secretaries of State should not extend beyond a general duty to ensure that the police operate efficiently; and they should have no powers of direction. Thus we recognise a fundamental distinction between central responsibility for an efficient organisation, both central and local, and the responsibility of the police themselves, which is neither central nor local, for the enforcement of the law.

231. Within the scope of their general responsibility we distinguish four particular matters for which Ministers will be responsible. They will be responsible for ensuring the effective execution by police authorities of the authorities' duties;(3) for the efficiency of each separate police force; for

(1) 7 & 8 Geo. 6. Ch. 31, s. 1.
(2) 8 & 9 Geo. 6. Ch. 42, s. 1 (Powers transferred from the Minister of Health to the Minister of Housing and Local Government by S.I. 142/1951).
(3) We described these duties in Chapter VI (paragraph 154).

securing collaboration between groups of

policing of wider areas; and for the provision of ancillary services. In addition, the Home Secretary will continue to exercise his present powers in relation to the Metropolitan Police. Ministers are already equipped with powers to discharge certain of these responsibilities; but some of their present powers will need to be amended, and they will also require new powers.

Powers of the Secretaries of State

232. The following powers of Ministers are in our view necessary and proper, and we make no recommendation to diminish them.

(*a*) Section 4 of the Police Act, 1919,(4) confers on the Secretary of State power to make regulations as to the government, mutual aid, pay, allowances, clothing, expenses and conditions of service of members of police forces, and section 11 of the Police (Scotland) Act, 1956,(5) has a similar effect.

(*b*) The Police Pensions Act, 1948,(6) confers on the Secretaries of State power to make regulations as to the pensions to be paid to or in respect of police officers.

(*c*) Under, and subject to the provisions of, the Police Act, 1946,(7) and the Police (Scotland) Act, 1956,(5) the Secretaries of State may approve voluntary schemes or initiate compulsory schemes for the amalgamation of police forces. We recommend in paragraph 289 that certain limitations on this power be removed.

(*d*) Under the Metropolitan Police Acts, 1829 and 1839,(8) the Home Secretary is the police authority for the Metropolitan Police District and has powers in relation to the Commissioner.

(*e*) Under the Police (Appeals) Acts, 1927 and 1943,(9) the Secretary of State is the appellate authority in respect of an appeal by a police officer found guilty of an offence against police discipline and awarded a punishment other than a minor punishment. We recommend in paragraph 449 that the scope of this appellate jurisdiction be extended.

233. As we indicated earlier in our report, the Secretaries of State exercise much influence over police authorities and chief constables through their powers to withhold the whole or part of the police grant.(10) Our proposal to assign legal responsibility for the efficiency of the police to the Secretaries of State modifies the principles on which the grant should be paid, and consequently implies amendment of the statutory provisions which govern it. Clearly, an authority cannot be penalised for failing to carry out a duty which belongs to the Secretary of State. We accordingly recommend that payment of the grant be made conditional upon a police authority satisfactorily discharging the legal responsibilities which we propose should be assigned to it: namely, provision of a police force of adequate strength,

(4) 9 & 10 Geo. 5. Ch. 46. (5) 4 & 5 Eliz. 2. Ch. 26.
(6) 11 & 12 Geo. 6. Ch. 24. (7) 9 & 10 Geo. 6. Ch. 46.
(8) 10 Geo. 4. Ch. 44 and 2 & 3 Vict. Ch. 47.
(9) 17 & 18 Geo. 5. Ch. 19 and 6 & 7 Geo. 6. Ch. 8.
(10) The conditions on which the grant is paid are described in paragraph 110 (*e*).

appointment to the posts of chief constable, deputy chief constable and assistant chief constable of persons approved by the Secretary of State; and where appropriate the discipline and removal from office of these persons.

234. We now summarise additional powers which we recommend that Your Majesty's Secretaries of State should seek from Parliament;

(*a*) The Secretaries of State should be empowered to appoint a chief inspector of constabulary to act jointly for England and Wales and for Scotland.

(*b*) The Secretaries of State should have a new power to make schemes to promote the efficient policing of an area through the collaboration of groups of forces for specified purposes.

(*c*) The Secretaries of State should have power to set up a review body to survey police areas so as to provide a basis for the amalgamation of forces. To facilitate amalgamations their powers to amalgamate forces should be general, and not restricted to any prescribed size of population. The approval of the Secretary of State should be required to the formation of any new force.

(*d*) The Secretaries of State should possess additional powers to secure the appointment of proper persons to be chief constables, deputy chief constables and assistant chief constables.

(*e*) The Secretaries of State should possess new powers to secure the removal of chief constables on the ground of inefficiency; and they should have power to confirm or to reject a proposal by a police authority to retire a chief constable or any other officer in the interests of the efficiency of the force.

(*f*) The Home Secretary should have a new power to call for reports from chief constables. Both Secretaries of State should have power to determine, on the submission of a chief constable, the propriety of a request by a police authority for a report on police matters.

235. All these proposals are directed to the same end: to arm the Secretaries of State with adequate powers to enable them properly to discharge their responsibility for the efficiency of the police. In Chapter V we described the steps already taken to promote uniformity throughout the service, and later in this chapter we mention some district arrangements and ancillary services which have grown up in recent years. But the unifying process represented by this activity appears to us to have been too slow, too empirical and too haphazard. It has suffered from the absence of a strategy which could envisage future requirements before the sheer pressure of circumstances made them apparent. The recommendations which follow are consequently designed to show the directions in which a more forward-looking policy is urgently needed, and the ways in which it should be put into effect.

236. The first requirement is a radical change in the purpose and organisation of the inspectorate; and we proceed to state our reasons for thinking that a chief inspector should be appointed, that the number of other inspectors should be increased, and that the responsibilities of the inspectorate should be broadened.

237. There has since 1945 been authority[11] for the appointment of separate chief inspectors of constabulary for England and Wales and for Scotland, but no appointments have been made. We recommend that there be substituted a single post of Chief Inspector of Constabulary for Great Britain, and that this post be filled without delay. The chief inspector should be regarded as the senior professional adviser to the Secretaries of State on police matters, and he should have a general oversight over other inspectors. In addition, he should be given specific duties.

238. We recommend that the chief inspector have a recognised rôle in the strategic planning of the police service. At present the Home Departments, the Police Council, or a conference of chief officers may take the initiative in proposing a new development in training, organisation and methods or operational techniques; but each of these bodies already has exacting responsibilities. The result is that planning suffers through not being the clear responsibility of any single component of the service.

239. Two bodies which at present meet under the auspices of the Home Office[12] have an indirect interest in planning, but their concern is with particular agencies and services rather than with broad developments. The first of these is the Common Police Services Committee, which contains representatives of the Home Office and police authorities under a Home Office chairman. Its purpose is to provide, by pooling resources, services which it would be impracticable for each police force to provide on its own; and these services are consequently financed from a central fund, half of which is provided by the Exchequer, and the other half by local government. At present the common services comprise some of the training and operational services described in paragraphs 256-257 together with the police representative and negotiating machinery and centralised promotion examinations.[13] Individual police forces contribute to the common services fund in proportion to their authorised establishment. Hence the primary purpose of the committee is to give financial authority for common services, rather than to plan them. The chief constables submitted to us that other services, such as driving courses, detective courses and dog handling, should be designated as common services, thus ensuring that the smaller forces would be at no disadvantage in the facilities available to them.[14]

240. The other body concerned with central planning is the Central Conference of Chief Constables. This is an entirely professional body which meets, normally three times a year, under the chairmanship of a senior official of the Home Office. The meetings usually occupy two days. The conference comprises representative chief constables from every police district[15] together with the Commissioner of Police of the Metropolis. In addition there are District Conferences of Chief Constables in every police district, which meet at least quarterly to discuss common problems and to

(11) The Police (His Majesty's Inspectors of Constabulary) Act, 1945.

(12) There are similar, but not exactly parallel, arrangements in Scotland.

(13) The common police services are designated in article 8 of the Police (Grant) Order, 1951, and there is power to designate others; the negotiating and promotion machinery are additional "designated" services.

(14) Minutes of Evidence 15, page 846.

(15) "Police districts" are described in paragraph 248, and shown in the map in Appendix IV.

promote common action. Both the central and the district conferences appoint numerous sub-committees to deal with specific problems. Thus there are committees dealing with such matters as detection, traffic, policewomen, the administration of district training centres, regional crime clearing houses, war duties and civil defence liaison, and so on.[16]

241. It appears to us that there is a major requirement in the central police organisation which the arrangements we have described so far do not adequately meet, and cannot be adapted to meet. This requirement is for the provision of a central Government unit, charged with the planning of police methods, the development of new equipment (such as communications facilities,[17] and the design and standardisation of vehicles), and the study of new techniques, so as to enable the police service to deal promptly and effectively with changes in the pattern of crime and in the behaviour of criminals. We recommend the establishment of such a unit, adequately staffed and with provision for expert scientific advice. The unit should work under the general direction of the chief inspector of constabulary. We should expect it to make full use of existing agencies, both inside and outside the police service, and it might well have occasion to enlist the help of specialists in particular fields. In developing and testing new equipment and techniques the unit would have to rely on the co-operation of selected police forces. But we are strongly of the opinion that the Government should not hesitate, where appropriate, to set up new establishments to carry out research and development into police problems. Such arrangements would not be inexpensive. But the amount of money at present devoted to research into police problems is insignificant compared with the cost of the research programmes of the fighting services ; and the community should, in our opinion, accept the burden of a properly conducted programme of research on the lines which we have indicated as an essential part of the cost of the war against crime.

242. It is important that the establishment of such a unit should not be allowed to stifle the initiative of local forces in developing new techniques. There should be a constant two-way flow of ideas between the unit and chief constables, so that fresh information can be made quickly available throughout the police service. But it is essential that a clear duty should be accepted by the Home Departments, working through the chief inspector, to ensure that the results of research are not only made available but speedily adopted throughout the country.

243. An incidental effect of the establishment of a research unit under the control of the Government will be to relieve the Receiver of the Metropolitan force of his present responsibility, to which we referred in paragraph 226, for authorising research projects.

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(16) Minutes of Evidence 15, page 845.

(17) The need for central research in particular fields has already gained limited recognition. Thus the Communications Branch of the Home Office collaborates with other departments and with manufacturers in the development of new and improved wireless equipment. The branch is also responsible for testing equipment, and for initiating the development of new equipment in the light of experience gained in the field. But we understand that this unit was developed in time of war primarily for civil defence purposes, and it serves the needs of the civil defence and fire services as well as those of the police.

Inspectors of constabulary

244. The office of inspector was created by the County and Borough Police Act, 1856. This statute authorised the appointment of three inspectors for England and Wales (subsequently increased to five) " to visit and enquire into the state and efficiency of the police appointed for every county and borough . . . and also into the state of the police stations, charge rooms, cells or lock-ups or other premises occupied for the use of such police . . . ". An Act of the following year authorised the appointment of an inspector of police for Scotland, with similar duties. No provision was made for the inspection of the Metropolitan force, and the inspectors of constabulary still do not inspect it. The limit on the number of inspectors in Great Britain was removed in 1945. The inspectors are required to report to one of Your Majesty's Principal Secretaries of State, and we have no reason to doubt that they carry out their duties in a manner which is very valuable, so far as their limited number allows. In so doing they have established themselves as friends and advisers of the chief constables of the forces they inspect.

245. Increasingly, however, the inspectors have been concerned in recent years with issues of policy as well as with routine inspection; and as the professional advisers to the Home Departments their opinion has been sought upon a great variety of matters affecting the efficiency and well-being of the service. Thus their work has come to assume two distinct aspects —the regulative functions laid down by statute and the constructive functions placed upon them in modern times. By regulative work we mean the ordinary day-to-day assessment of the efficiency of police forces by way of inspections, and the checking of malpractices. By constructive work we mean not only the encouragement of initiative in individual forces and the sharing of new ideas and practices between one force and another, but more particularly the responsibility for forward thinking about the demands of executive policing over wider areas than those of individual forces.

246. It is the constructive side of the work which must now be further developed; and the inspectors, under the arrangements which we propose, will be the primary links between the chief inspector and research unit on the one hand, and the chief constables on the other. They will thus be responsible, under the chief inspector, for ensuring that new equipment, ideas and techniques are promptly adopted by the police throughout Great Britain.

247. We recommend, in addition to the appointment of a chief inspector, that the number of inspectors in England and Wales be increased to eight, to correspond with the number of police districts outside the Metropolitan area. We further recommend that the number of inspectors in Scotland be increased to two. Each inspector should have the assistance of a staff officer of sufficient seniority, who would relieve him of the more routine side of the work, such as the examination of force records and the noting of points to be recorded in reports on the force. There should be an office for each inspector in every police district outside London, and the inspectors should be given adequate clerical help. The effect of these proposals will be to increase the number of inspectors of constabulary in Great Britain from six to eleven. We recommend that, in the course

of the review and re-organisation of the inspectorate, attention be paid to the adequacy of the arrangements made for inspecting the women police.

248. The "police districts" of England and Wales, which we regard as a suitable basis for this re-organised inspectorate, first appeared in 1917 as the areas within which chief constables grouped themselves into district conferences for discussion of the executive duties of the police. They were subsequently found to be useful units for other purposes, and they now form the basis of the recruit training organisation, as well as delimiting very roughly the areas covered by the criminal record offices and forensic science laboratories.(18) Scotland, although very much larger in area than any of the police districts of England and Wales, at present forms a single unit for the organisation of these services and for the purpose of inspection. As will be seen from the maps in Appendix IV, the districts vary considerably in size, character and population, as well as in total police establishment and in the number of police forces which each comprises. We do not regard this variation as necessarily a disadvantage, but we do not think that the existing boundaries of police districts should be regarded as permanently fixed.

The purposes of inspection

249. The time has gone when the inspection of police forces should be limited to the state and efficiency of each particular force. The inspector should be equally concerned with the efficient collaboration of neighbouring forces, with the promotion of co-ordinating machinery between them, and with the development of services best handled on the basis of a district rather than within a single force. We discuss the kind of arrangements required for these purposes later in the chapter. They are either beyond the capacity of an individual force, or they demand a concerted effort on the part of several forces. Both reasons may operate. It is in our opinion essential that the inspectors should lose no time in planning and developing these arrangements. Within the framework of a unified police service under the exclusive control of the Government they would have been provided as a matter of course; and the continuance of separate forces must not, as has been the case until now, be allowed to impede their proper development.

250. Thus the inspectors of constabulary will have four duties. They will continue, as now, to inspect each separate police force and report to the Secretary of State whether or not it is efficient, and in particular they will indicate any misgivings they may have about the competence of its chief constable, including the manner in which he deals with complaints against the police.(19) Secondly, arising from their inspection of the force, they will form an opinion about the adequacy of the provision made by a police authority, and report any shortcomings in this respect to the Secretary of State. Thirdly, they will ensure that the results of central research are made available to the forces they inspect, and that new knowledge and up-to-date techniques are being applied. Fourthly, they will be

(18) The presence of London between Districts 5 and 6 alters the pattern so far as these two agencies are concerned: and there are discrepancies elsewhere e.g. in the Midlands and Wales.

(19) We discuss the inspectors' duties in regard to complaints in Chapter IX (paragraph 450).

responsible for advising upon arrangements for promoting collaboration between forces and the development of ancillary services. Although their duty will continue to be to the Secretaries of State, the inspectors should, in addition (as we recommended in Chapter VI, paragraph 160), keep in close touch with police authorities.

251. The inspectors have at present no powers of direction over chief constables or police authorities, and we make no recommendation to alter this, believing that it is undesirable and unnecessary that they should possess executive powers. In general they achieve results by persuasion and goodwill, rather than by making representations to the Secretaries of State—which is their only alternative means of inducing compliance with their recommendations. It is consequently upon the Secretaries of State that the additional powers which we propose must be conferred: and we would expect that they will normally be exercised on the advice of the inspectors of constabulary.

252. It is in our opinion essential that the benefits of this re-organised inspectorate, and in particular the benefits accruing from research, should be made equally and promptly available to every police force throughout Great Britain ; and to facilitate this we make three recommendations:—

(i) The appointment of chief inspector of constabulary should be made jointly by the Home Secretary and the Secretary of State for Scotland ;

(ii) The inspectors in England and Wales should be freely interchangeable between the police districts ;

(iii) Arrangements should be made to ensure that the Metropolitan force, as well as other forces, receives the advantages of the re-organised inspectorate and the benefits of research and planning.

253. We do not attempt to lay down the normal period of service in a district, but clearly it should be long enough to enable an inspector to get to know his area thoroughly, but not so long as to exhaust his stimulating influence on the forces under his supervision. One advantage of fairly frequent interchange will be a dissemination among police districts of experience in the fields in which particular inspectors will have made themselves expert: such experience should not be at the disposal of one district only.

Recruitment of Inspectors

254. It is clearly of great importance that the inspectorate should be recruited from the best possible field within the police service. Considerations such as pay and pension should not, therefore, limit the number or the quality of those willing to accept appointment.

255. We heard some evidence to the effect that a police authority may suffer financial sacrifice by releasing its chief constable prematurely to serve in the inspectorate, and that in some cases a chief constable may himself lose directly in annual income and pension through accepting appointment as an inspector. Such a situation ought not to continue. We therefore recommend, without making any specific proposal, that the remuneration and conditions of appointment and service of the inspectorate be reviewed by the Home Departments, and put on such a basis that there

will be no financial obstacle in the way of securing the best men for these posts.

Co-ordination between police forces

256. As we have indicated, much of the inspectors' energies will be taken up in furthering the development of services provided by the central Departments for the benefit of individual forces, and the communal arrangements which have come into being by agreement between the forces themselves. The more important of these services and arrangements are as follows:—

(a) *Forensic Science Laboratories.* For twenty years or so the Home Office has provided laboratories in London and in eight provincial centres, which offer a service for all police forces in England and Wales. There is also a laboratory run by the Glasgow City Police, the services of which are available to all Scottish forces.

(b) *Wireless Depots.* Depots for the supply and maintenance of wireless equipment for the police (and also for the fire and civil defence services) have been established by the Home Office at nine main centres throughout England and Wales. (See footnote 17 on page 76.)

(c) *Central Criminal Records.* The services of the Criminal Record Office at New Scotland Yard, which contains information about criminals throughout the country, are available to all forces; and Scotland Yard circulates criminal information and intelligence.

(d) *Provincial Criminal Records.* There are also criminal record offices in Birmingham, Bristol, Cardiff, County Durham, Glasgow, Lancashire, Liverpool, Manchester, and the West Riding of Yorkshire. These maintain records of criminals for the surrounding areas. They have arrangements for the exchange of information among themselves, and also with the central record office at Scotland Yard.

(e) *Murder and Fraud Squads.* Assistance is given by the Metropolitan Police to any police force in England and Wales, on request, in criminal investigations involving murder. Similarly the services of the City and Metropolitan Fraud Squad are available throughout Great Britain for the investigation of serious company frauds.

(f) *Crime Squads.* These have been set up in London and the Home Counties, Birmingham, Bristol, Glasgow, Liverpool, Manchester and Tyneside. They have a roving commission throughout the areas of adjoining police forces who seek their help.

(g) *Mutual aid.* A system of mutual aid has been extended to provide everyday assistance by one force to another. It is not, as was formerly the case, reserved for special occasions or emergencies.

257. In addition to the foregoing technical services and arrangements for collaboration, arrangements have been made for general and technical training, as follows:—

(h) *Initial training.* The basic training of probationary constables is carried out at eight provincial training centres in England and Wales,

and a single centre in Scotland, which are run by the Home Departments. In addition, the Metropolitan Police maintain separate recruit training establishments in London.

(i) *Police Colleges,* of England and Wales and of Scotland respectively, are likewise centrally run, and provide for the higher training of police officers from any force.

(j) *Driving Schools* have been set up in 13 forces, and places are reserved in these schools for a limited number of officers seconded for the purpose from other forces.

(k) *Detective training schools.* Four large schools in England and Wales, organised by the Metropolitan Police and the Birmingham, Lancashire and West Riding Constabularies, operate under the guidance of the Home Office and cater extensively for the training of officers from other forces. In Scotland detective training is carried out centrally at the Police College.

258. Without commenting on the efficiency of these services we proceed to state, in the light of the evidence we received, some general conclusions about the direction in which we think there is scope for their further development.

Criminal investigation

259. Ample evidence has been placed before us about the serious and growing problem of organised crime in this country. This is a matter which every responsible authority, and every citizen, should view with the greatest concern.

260. Between 1950 and 1960 the number of reported cases of robbery with violence in England and Wales more than doubled, and there was a fall in the proportion of the criminals who were brought to justice.[20] Moreover, there is evidence that much of the increase in this type of crime is due to specialised types of robbery, such as the bank raid, in which the mobility and skill of the modern criminal may be linked to a country-wide organisation. In the light of this, we were asked by one witness to conclude that criminal investigation can no longer be effectively pursued on any smaller scale than the country as a whole. However the uniformed police might in future be administered, it was suggested, the C.I.D. should be re-organised as a national force, centrally controlled and directed.

261. In considering this matter it is well to bear in mind that a high proportion of the more serious cases of organised robbery occur in London, where there is already a large detective organisation of acknowledged skill. Yet the detection rate in London is lower than the rate almost anywhere else in the country.

262. There was a conflict of professional evidence about the value of "nationalising" the C.I.D., and it is a matter which is doubtfully within our terms of reference. It is, however, a question of such importance that we think it may be useful to state our views upon it.

263. First, the great bulk of crime is still local, in the sense that it is committed by local people operating near their homes. We have no doubt that crime of this kind is best tackled by detectives who form part of the local force, enjoying the continuous interchange of information with the uniformed branch which daily association affords.

[20] Criminal Statistics for England and Wales, 1960, Cmnd. 1437.

264. Second, there is a danger that the severance of the C.I.D. from the uniformed branch would weaken the interest of the uniformed policemen in detection, and they would tend to shrug off responsibilities which at present they are ready and willing to share with their colleagues in the C.I.D. We believe that this would be a serious loss.

265. Third, we think it unnecessary and unwise to introduce a new organisation for criminal detection before the resources of the present system have been fully developed and exploited. Criminal record offices do not yet cover the whole country. In some cases this is because individual chief constables prefer to remain outside the district organisation. Furthermore, some crime squads are of very recent origin and scarcely past the experimental stage of their operations. And there is great scope, as we have said, for initiating and developing research, and for the application of new techniques.

266. Fourth (and this is related to the last point), it is reasonable to suppose that the effectiveness of the C.I.D. depends more upon their personnel, training, equipment and methods than upon the way in which they are organised; and this brings us back to our recommendations regarding the inspectorate.

267. For the foregoing reasons we do not recommend the creation of a national C.I.D. separate from the uniformed branch. But we think that this is a matter which should be kept constantly under review; and the Government should not hesitate, by reason of pressure from interested parties or considerations of economy, to establish a separate C.I.D. if our present recommendations prove inadequate to meet the needs of the time—or if further experience of the present system, and technical study of the problems involved, indicate that a C.I.D. separately organised will provide a more effective means of fighting crime. In the meantime, this is a field in which a reconstituted inspectorate can play an important part in encouraging and stimulating within each district the means of fighting crime. Each inspector should satisfy himself that his district is comprehensively covered as regards criminal records;([21]) that crime squads operate freely, with establishments maintained at a level reflecting not the spare capacity of the contributing forces, but the requirements of the situation as assessed by himself; that the fruits of research are promptly made available to chief constables; that no force suffers from its inability to secure modern vehicles and up-to-date equipment; and that the need for new tactics in meeting outbursts of a particular kind of crime is kept constantly under review. This need not imply that all the ancillary services should be rigidly organised along district lines, if for any service it is found convenient to follow a different pattern.

268. Criminal detection, more than any other branch of the police service, offers scope for the employment of specialists. Every effort should be made to ensure that the best possible use is made of police officers with an aptitude for detective work or with relevant specialist qualifications; and the adequacy of supporting civilian staff, and in particular of the complement of scientists, should be reviewed.

([21]) The practice in Scotland, where operational control of the central criminal record office is in the hands of a committee of chief constables under the chairmanship of H.M. Inspector, might well be followed elsewhere.

269. We have studied with interest the proposals by three of our colleagues (contained in the reservation printed in pages 153–156 of this report) for direct recruitment of a proportion of the members of the C.I.D. The majority of us, however, have not felt able to support this scheme. We have been influenced by the arguments against it which are fairly set out by our colleagues in paragraph 8 of their reservation.

Long distance traffic problems[22]

270. Traffic control has increasingly occupied the energies of the police in the course of this century, but only in the last ten years or so has it begun to influence the pattern of police work over wide areas. This change has been brought about by the enormous increase in the number of road vehicles and to a less extent by the gradual emergence of a comprehensive road system throughout the country. The Inns of Court Conservative and Unionist Society argued that a stage had now been reached at which traffic control should be entirely re-organised on a regional basis under a separate corps of traffic police.[23] We do not think that the case for such a radical measure has been made out. We favour the approach of the Association of Chief Police Officers, who told us that they had no preconceived ideas of what the eventual pattern of patrolling main routes should be once a national road network is completed. It must be acknowledged that the evolution of this network is so slow as to allow for much thought and experiment before the final pattern of policing is adopted.

271. Nevertheless, we should expect that a strengthened inspectorate, with the backing of a research organisation such as we recommend, will be able to give a clear lead to individual forces on the way in which they should tackle long distance traffic problems, for these are bound to become more acute. Even now problems are arising, in the joint policing of motorways, as to how manpower may be most economically shared and as to the best type of vehicle to use; and it is in these matters that the advice of an inspector could be particularly helpful. If, exceptionally, some kind of "traffic squad", with a roving commission on all the major roads within a police district, seemed likely to be valuable, we should expect the inspector to take the initiative in putting forward a scheme and in enlisting the co-operation of the individual chief constables in its execution.

Other services

272. We think that there are other services which might well be provided centrally or on a district basis rather than by forces individually. Examples are the provision of detective training schools, driving schools, and arrangements for training police dogs and their handlers. It would be beyond our province to say how these services should be organised or what initiative the inspector of constabulary should take in the matter. We mention them only to emphasise that the inspector's concern should extend to everything within his district in which greater efficiency can be promoted by co-ordinated action.

Means of securing co-ordination between police forces

273. Occasions may arise when an arrangement of the kind we have been discussing, although favourably regarded by the inspector of constabulary,

(22) We deal separately in Chapter VIII (paragraphs 382–393) with the relationship between the police and motorists, as part of the broader question of relations between the police and the public.

(23) Minutes of Evidence 11–12, pages 692–4.

is hindered by local opposition. We recommend that the Secretaries of State be given new statutory powers to deal with such a situation. There are relevant precedents in the provisions of existing legislation with regard to compulsory amalgamations between police forces.[24] On a similar basis the Secretary of State should, after proper inquiry, lay before Parliament a scheme designating the service and specifying the forces which should take part in it.

The size of police areas

274. Elsewhere in our report we have suggested that the large number of separate police forces in Great Britain is due rather to historical causes than to an up-to-date assessment of modern requirements; and we recommend that Your Majesty's Government review, as a matter of urgency and importance, the number and size of police areas and police forces.

275. The present pattern of police forces is determined by the pattern of local government areas; and the explanation of the immense range in the size of forces is that some of these units of local government are very large and others are very small. This is not a state of affairs which, in and of itself, we deplore: indeed it follows from our view that local authorities have an important part to play in the administration of the police that police areas must, within reason, continue to be linked with local government areas. Moreover, we received a good deal of evidence to the effect that variety in the size of police forces is no bad thing.

276. But this does not dispose of the matter. For, in the first place, there is still a question whether the present pattern of local government is right. This is a matter which, as regards England and Wales, is currently being reviewed by Local Government Commissions, and the answer seems to be that some existing areas ought to be enlarged to meet modern needs. Moreover in Scotland no review is under way, or in prospect for several years.

277. In the second place, even if the pattern were wholly satisfactory for general local government purposes, it is a further question whether it should be adopted without modification for police purposes. Criminals operate across local government boundaries. Moreover, as the chief constable is not, like most chief officers, accountable for all his actions to his authority, there is not the same need for an absolute correlation between a single police force and a single local authority. Association is the keynote, rather than control. No doubt this is why combined authorities, representing several distinct local government units, have been found tolerable to a wider extent in relation to the police than in regard to most other local government responsibilities.

278. However, acceptance of the difference between the police and other local services must not be pressed to the point of insistence that it does not matter how many local authorities are combined to support a single police force. The joint board system is unpopular in England and Wales, and it tends to detract from the sense of responsibility of individual authorities. There are substantial advantages in providing for a police area to coincide with a local authority area wherever the latter is sufficiently large. But we can properly argue that, where the professional criteria for the size and disposition of police forces differ from those relating to local government services in general, the police criteria should be given due emphasis

[24] The Police Act, 1946, section 4 and the Police (Scotland) Act, 1956, section 18.

and weight. We now review the evidence we have received regarding these criteria.

Minimum size of police forces

279. One of the principles approved by Parliament for a policy on local government in England and Wales is that a town with a population of 100,000 or over shall be deemed *prima facie* fit to discharge all the functions of a county borough.[25] The size of a police force appropriate to a population of 100,000 is at present about 200; but we have formed a clear view that forces as small as 200, especially borough forces, tend to suffer under a number of disadvantages. Operationally, they are not flexible enough to meet all the demands that may be placed upon them, and the help of neighbouring forces may have to be called upon. The employment of specialists is difficult, and training facilities tend to be inadequate. Promotion tends to stagnate and it is harder than in a larger force for the chief constable to ignore the claims of seniority in filling the vacancies that occur. Discipline is difficult to enforce impartially and unpleasant in its effects, because the disciplined man is too well known to his chief constable, to his fellows, and to the public. The risk of undesirable pressure being brought to bear on members of the force by local people, whether members of the local authority or others, is greater. And, not least important, it is no easy matter to find for such a force a chief constable with all the qualities which ought to go with that responsible and semi-autonomous office. It is perhaps worth adding that the Desborough Committee, over 40 years ago, expressed the opinion that ideally a town with less than 100,000 inhabitants should not have a separate police force; and the Committee recommended not only that police forces in non-county boroughs in England and Wales should be abolished, but also that no new force should be established in a county borough except with the consent of the Home Secretary, and that consent should not be given unless some definite administrative advantage would result. The first of these recommendations was not adopted until 27 years later[26]; the second has not yet been given statutory effect.

280. Thus it is apparent to us, from the evidence we received, that forces numbering less than 200 suffer considerable handicaps, and that the retention of forces numbering less than 350 in strength is justifiable only by special circumstances, such as the distribution of the population and the geography of the area. Moreover, it is clear that the optimum size of force is much greater than this—probably 500 or upwards. A force of 500 is appropriate to a population of 250,000, which is far higher than the population of most police areas today, and probably higher than they would be if effect were to be given to the recommendations of the Local Government Commissions.[27]

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(25) Section 34 of the Local Government Act, 1958, provides:—

"In sc far as the question of the constitution of a new county borough is affected by considerations of population, the Commission and the Minister shall presume that a population of 100,000 is sufficient to support the discharge of the functions of a county borough council."

(26) In the Police Act, 1946, S.I.

(27) Of the 158 police forces in Great Britain, 13 have at present an establishment of less than 100; 45 have establishments between 100 and 200; 39 have establishments between 200 and 350; 17 number between 350 and 500; and only in 44 does the establishment exceed 500. (See Appendix III).

281. The evidence also showed that in Scotland a practical scheme of re-organisation would reduce the number of separate forces from 33 to between 15 and 20. Scotland is an extreme case of the multiplicity of small police forces: in spite of a recommendation to the contrary by the Desborough Committee, any burgh with a population of 50,000 or over is still entitled to have its own force;([28]) and there are six burghs with populations even less than 50,000 which still retain their own forces. In 1933 a Committee under the chairmanship of Lord Ormidale recommended a measure of consolidation which would ultimately have reduced the number of forces from 48, as it then was, to 14,([29]) but no action was taken at the time to implement its recommendations. Under the provisions of the Police (Scotland) Act, 1946, however, nine amalgamations, covering 25 forces, were effected voluntarily, thus reducing the number of Scottish forces to the present figure of thirty-three. We, however, are quite satisfied from the evidence we have received that a very considerable further reduction in the number of Scottish forces is urgently called for; that the only burgh forces should be those of the four counties of cities; and that a number of existing county police areas should be combined.

282. Furthermore it was suggested to us that while there may be certain disadvantages associated with forces of a very large size, they are often outweighed by the practical needs of policing in the sprawling, continuously built-up areas in which so many people now live. In these conurbations, local government boundaries are not only meaningless from the police point of view, but may be detrimental to operational efficiency. Consequently it was argued that nothing short of comprehensive unitary forces, on the model of the Metropolitan Police, would meet the needs of these areas. In our view there is at least a case for considering unitary treatment of each conurbation, for we have observed that continuously built-up areas, where they are cut by police boundaries, present special difficulties.

283. It would be wrong to suggest that the police evidence revealed indifference, far less antagonism, to the correlation of police areas with the areas of local councils. As we have already noted, chief constables made it clear that they find their association with local government valuable and helpful, not only from the point of view of convenience in working with the chief officers, but also in the co-operation and friendly advice for which they look to the elected representatives of the community. So important did the chief constables consider this link that, as they told us, the strict demands of police efficiency might often have to be modified in order to preserve it. But our impression is that the weight of the police evidence was to the effect that where there is conflict between the claims of operational efficiency and of the local connection it has been resolved, on the whole, too readily in favour of the local connection.

Recommendations on police areas

284. It is not our business to assess in detail the strength of the case for re-organising particular police forces in particular areas on the basis of larger units. But we are satisfied that there is here a problem which Your Majesty's Secretaries of State should examine as part of their duty to promote the highest standards of efficiency in the police service.

([28]) Police (Scotland) Act, 1956, s. 1 (2).
([29]) Report of the Police Consolidation (Scotland) Committee (Cmd. 4463).

285. There are various ways in which a review of police areas might be put in hand. One would involve the appointment of a broadly-based committee, on the analogy of the Local Government Commissions. The committee would be given broad lines of guidance and would be instructed to report its detailed findings after conducting a series of local inquiries throughout the country, at which interested parties could give evidence. But this procedure would, we think, be unduly cumbersome; and it would compel the reviewing committee to go through a laborious process of inquiry which might in many instances prove to be unnecessary.

286. We therefore recommend the immediate adoption of a simpler procedure, under which the duty of reviewing police areas from the professional point of view would be entrusted to an expert working party, whose inquiries would be informal, and who would report confidentially to Your Majesty's Secretaries of State. The task would not be easy, but it should be tackled with urgency; and it might be convenient if the working panty covered the country in a series of area[30] reports, related, so far as possible, to the work of the Local Government Commissions. Once an area report has been submitted by this working party it would be the duty of Your Majesty's Secretary of State, after reviewing it in the light of any wider considerations, to publish proposals for the future policing of that area. In so far as these proposals involved amalgamation between existing forces, or the alteration of existing boundaries, a statutory procedure would be followed, including local inquiries wherever objections were lodged against the proposals.

287. The principles which the working party should be instructed to apply in their review of police areas are of great importance, and it may be helpful to re-state in broad terms the considerations which we think are of weight. First, there is a lower limit to the size of a police force below which efficiency under present-day conditions is liable to be seriously impaired. Secondly, the optimum size of a police force from the operational point of view connotes a population somewhat higher than that appropriate to any other of the principal local government services. Thirdly—and this will usually work against the first two considerations—the association of a single force with a single local authority is of real value, whereas a combination of local authorities for police purposes may involve occasional difficulties. Fourthly, there are certain areas where all these considerations may be overridden by other factors. Thus on the one hand a sparsely populated district may warrant a separate police force because of the great area that has to be covered, and on the other hand a particularly densely populated district, such as a conurbation, may be better policed as a single unit even if it comprises the areas of several sizeable local authorities. Finally, we have heard no evidence in favour of altering the arrangements for the policing of London, or the boundaries of the Metropolitan Police District, although these may have to be reviewed in the light of the Government's proposals for the Greater London area.

288. Our conclusions so far as Scotland is concerned have already been stated. Although there appears to be no early prospect of local government re-organisation in Scotland, the complex problems, arising from the

[30] "Area" is here used in the sense of "review area" as used in the Reports of the Local Government Commission for England, not in the sense of the area of a single police authority.

distribution of population and other factors, which have made the work of the Local Government Commission for England so intricate and difficult are not so formidable in Scotland: and we see no reason why the review body should not address its mind to the re-organisation of Scottish police areas without any preparatory study of local government areas.

289. The statutes which govern the formation and amalgamation of police forces at the present day are out of keeping with the approach which we advocate, and we recommend that these statutes be amended. In particular we recommend that the present entitlement of county boroughs in England and Wales, burghs in Scotland with a population of 50,000 or over, and counties throughout Great Britain to have, as of right, police forces of their own be brought to an end; and that no new force be formed without the consent of the Secretary of State. We further recommend that the powers of the Secretaries of State to make schemes for the compulsory amalgamation of police forces be exercisable without restriction as to the population of the areas affected, and that at any inquiry held into a proposed amalgamation scheme the sole issue be the objection or objections lodged against it and not the scheme itself. This will mean that the Secretaries of State will no longer be under an obligation to show expressly at an inquiry, as they are at present,[31] that greater efficiency will result from a proposed amalgamation provided they can rebut the specific objections that may be made to it.

Powers of the Secretaries of State in relation to chief constables

290. The present arrangement for appointing chief constables were described in the last chapter (paragraphs 168-170) and we referred to the difficulties to which they occasionally give rise. In order to avoid these difficulties we think that the Secretary of State should allow to stand on a short list of candidates only the names of persons any one of whom he is prepared to approve for appointment to a post. We also commend the practice of the Home Departments, introduced in recent years, of suggesting the names of additional persons who might be suitable for the post; and we recommend that both these practices be backed by statutory authority. Thus the field for the police authority's choice will have been determined by the Secretary of State.

291. A consequence of making the Secretaries of State formally responsible for the efficiency of police forces is, as we noted in the last chapter, to entitle them to request the retirement of a chief constable on the ground of inefficiency. We recommend that arrangements be made, after consultation between the Home Departments, the local authority associations and the associations of chief constables, whereby it will be competent for a Secretary of State to request a police authority to retire its chief constable in such circumstances.[32] Clearly there can be no question of an appeal, but we should expect proper safeguards for the interests of a chief constable to be embodied in the arrangements. Thus the Secretary of State would not rely solely upon the advice of his own officials. It would be proper,

(31) This is the effect, as regards Scotland, of the decision in *Magistrates of Ayr* v. *Lord Advocate* (1950 S.C. 102). We understand that a similar view is taken of the existing law in England and Wales.

(32) War-time Defence Regulations empowered the Home Secretary to require a chief constable to retire in certain circumstances.

in our opinion, to provide for the appointment of an independent tribunal, possibly assisted by one of the inspectors of constabulary as an assessor, whose duty would be to hear the allegations against the chief constable and to report to the Secretary of State. The present provision for the investigation of a disciplinary charge against a chief constable, restricted as we proposed in Chapter VI (paragraph 175), may be found suitable for the purpose we have in mind.[33]

292. We think that a power of this kind will rarely, if ever, be used, since a chief constable whose efficiency was in question would almost certainly choose to retire voluntarily rather than be exposed to the publicity of enforced retirement. But it is in our view essential that the reserve power should be available in the hands of the Secretaries of State.

Administrative policies of the Secretaries of State

293. Our terms of reference do not require us to examine the internal working of the police service or the means, to which we referred briefly in Chapter V, by which the Secretaries of State have persuaded police authorities and chief constables to adopt uniform practices and standards. But our recommendation to increase the Government's responsibility for the efficiency of the police implies the need for a more vigorous lead from the centre ; and it is here, and particularly in the development of manpower policies, that the chief inspector of constabulary will have an important part to play. As we see it, his rôle in this field will be complementary to his rôle in relation to technical planning and research.

294. At a time when the competing demands of many services and industries on the limited pool of the country's skilled resources are becoming more pressing every year, it is in our view essential to have a strategy which takes account of the total numbers and qualifications of the men required as policemen, the means of enlisting their services, their disposition throughout the country in accordance with operational needs, and the arrangements for ensuring that each man is trained and given the opportunity to discharge responsibilities proportioned to his ability. There should be a comprehensive policy for recruitment, training, and promotion. The alternative is a general dissipation of resources, disappointment and frustration within the service over future prospects, and a continual liability to unevenness throughout the country, both in the adequacy of basic manpower and in the quality of command.

295. Various steps have already been taken by the Home Departments towards the formation of a co-ordinated manpower policy. The establishments of police forces require the approval of the Departments. Recruits have to satisfy minimum physical standards and to be within prescribed age limits. Training is well developed and largely centralised, through agencies described in paragraph 257. Control over promotion is exercised through a stipulation of minimum length of service in the ranks of constable and sergeant, and through national examinations which must be passed to qualify for promotion to sergeant or inspector. In addition, a certain number of appointments to sergeant and inspector are to be made under new arrangements which are described below.

(33) The effect of this would be to empower the Secretary of State to arrange for the case to be heard by a person selected from a list of persons nominated by the Lord Chief Justice or, in Scotland, by the Lord President of the Court of Session.

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296. By means of these controls some important advances have bee made, but they leave many areas still unregulated. There is no nation policy for recruiting cadets, and in few forces are there proper arrang ments for training them. Recruiting generally has tended to be haphazar with some forces using enterprising methods for attracting high quali entrants and others, not necessarily with smaller resources, making litt effort.(34) There is no check on the educational attainments of recrui apart from tests set by chief constables individually. Chief constables (in English and Welsh boroughs police authorities) are free to promote an one they choose, provided he has satisfied the minimum requiremen The rate of promotion is largely determined by the vacancies occurring each force separately, even at the higher levels. There are no we established arrangements for transfers between forces.

297. We are not qualified to make recommendations about the preci reforms required to meet these defects, nor have we heard the detail evidence on which changes should be based. We therefore indicate t general directions in which we think that a proper manpower policy shou be further developed; and we commend our views to the attention of t authorities and representatives of the police as a basis for discussion.

Educational qualifications of recruits

298. We said in our interim report that the available evidence on t educational quality of recruits to the police service gave some grou for concern; and we stressed that no recruitment policy could be deem satisfactory unless (*a*) it secured an adequate number of efficient polic men, and, (*b*) it attracted sufficient young men of such ability a educational attainments as would fit them to occupy in due course t highest posts in the service.(35) It is with the first of these requirements th we are concerned here.

299. To hope that improved pay and conditions will attract men of bet educational standard is reasonable; but it would be unrealistic to exp that, if full employment continues, there will be a spectacular rise in t general quality of recruits, and irresponsible to propose for all entra educational requirements so stringent that they must cause a crisis recruitment. What makes it difficult to frame suitable educational te for police entrants is less the fact that the majority of them have few if a passes in a recognised national examination than that nearly all of th have been away from school for anything from four to ten years.

300. We submit that the educational tests administered to police recru should satisfy the three-fold condition that they are reasonably unifo for the country as a whole, that they are expertly conducted and that th are appropriate to the age and scholastic background of the candidat In our view the existing practice fails on all three counts. The regulatio lay down only that the applicant must "satisfy the chief constable that is sufficiently educated by passing a written or oral examination in readi writing and arithmetic", a form of words unchanged since 1921 reflecting not unfairly the educational ideas of that date.

(34) The first national recruiting campaign was inaugurated under central direction e in 1962.

(35) Cmnd. 1222, paragraph 89.

301. Obviously there cannot be uniformity of standard when, with no more guidance than this, some 150 chief constables are left with the responsibility for framing, marking and evaluating tests. Again, it is no disparagement of the able men who command our police forces to suggest that they are unlikely to be expert in the admittedly difficult art of the examiner. Thirdly, tests on the basic skills and the more elementary content of the curriculum, fairly reliable in assessing the attainments of young people at school, are wholly unsuitable for men from 19 to 30 years of age, for most of whom schooling ended at 15 or soon after. However skilfully such tests are made up and corrected, they can at best give some indication of the candidate's scholastic stock-in-trade at the time of testing, but they can tell little—and may easily mislead—about what should be the real concern of the authorities, namely the mental potential of the young men coming forward. If, therefore, the Police Federations, in calling for a national entrance examination,[36] have in mind attainment tests of the traditional sort, it must be pointed out that such an examination would be of limited value and doubtful fairness, unless it was preceded by, say, a six months' refresher course in school subjects, a requirement which would adversely affect recruitment.

302. Our own recommendations seek, without derogating from the authority and responsibility of chief officers, to bring an element of uniformity into the assessment of candidates and to ensure that in what is educationally complex expert educational advice is at the service of the authorities throughout.

303. We think that all candidates for admission to the police service should be required to take the same standardised tests. These, though including a vocabulary test, would not be primarily tests of verbal ability but rather tests of the kind used for many years past on a very large scale in the selection of personnel by the Services, the Civil Service and industry. The validity of such tests as indicating where a given level of performance places the candidate within the general range of national intelligence has long been established and need not be argued here. It is worth remarking, however, that they have the further merit of largely ironing out differences resulting not from natural ability but from good or bad teaching, environmental variations, and length of time away from regular study.

304. Such test material would presumably be supplied by a body like the National Institute of Industrial Psychology to the Civil Service Commissioners, who would issue it to chief constables. A pass level would be fixed for the whole country, but while the attainment of this would normally be a condition of admission to the police service, it could hardly be made a requirement so absolute as never in any circumstances to be waived. It should be noted, however, that where recruitment was proving abnormally difficult, a chief constable would know at least how often and by how much he was being forced to depart from the approved standard of test performance. Moreover, as time passed and the test scores of all applicants were in the possession of the Home Departments, the authorities would know, as they have not known hitherto, just how well or how badly the police service was

[36] Minutes of Evidence 3 (Part I), pages 117–118.

faring in the recruitment of ability relative to the distribution of intelligence in the nation as a whole.

305. Even now there must be few cases (and after a moderate degree of amalgamation of police forces there should be none) where the chief constable is not associated with a local authority which also has a chief education officer with a professional staff, and we urge that the co-operation of the experienced educational staff be sought to the fullest extent in this difficult business of judging the intellectual and educational calibre of police recruits.

306. To give precision to these general suggestions we recommend as follows:

(1) That the present regulation about the examination of recruits be rescinded.

(2) That the same standardised tests be given to all recruits.

(3) That a professionally qualified member of the chief education officer's staff give the standardised tests and report on them to the chief constable.

(4) That a short continuous composition on a subject within the candidate's range of experience and interests continue to be set in all cases, not however to assess writing, spelling or grammar, but to show whether the candidate can judge what is relevant and important in a statement. The educationist assisting the chief constable should mark the composition.

(5) That in the interviewing of candidates, the chief constable have with him as an assessor the chief education officer or a senior member of his professional staff, or an experienced headmaster, to help in resolving such doubts and difficulties as must arise where the scholastic records of the majority of candidates have to be judged mainly or wholly from their school reports.

(6) That at some point in his probationary period the recruit be tested in the basic educational skills. To give such tests when a man seeks entry to the police service is ill-advised and often unfair. But once a candidate has been accepted, it would be wholly reasonable to point out to him that a good standard in writing, spelling, grammar, punctuation and arithmetic is essential in the job he has chosen; that he will be given guidance towards becoming more proficient in these skills; and that before the probationary period ends he will have to satisfy his chief officer as to his proficiency in them by passing tests. These tests should be set and marked by the Civil Service Commissioners.

(7) That, despite the heavy demands on police probationers, an effort be made to improve and extend their general education, either by having them share in the work of day-release groups or by the provision for them of classes arranged specially to meet the exigencies of the service. Such a development would be in line with the great expansion of further education planned for the nation as a whole, and we are confident that education authorities, co-operating regularly with chief constables in the ways we have envisaged, would show great interest and helpfulness in promoting the continued general education of young constables.

307. Two points should be added. First, our proposals for improving the educational assessment of applicants to the police service do not imply that we regard educational qualifications as more important than integrity and mental and physical fitness. As we said in our interim report, all these requirements are essential. Secondly, we would make it clear that in no circumstances do we contemplate the educationist's having more than an advisory function in the selection of police recruits. The responsibility is the chief constable's and it must remain unimpaired.

Recruitment of future senior officers

308. In our interim report we expressed our concern at the lack of well educated recruits to the police service. The facts may be summarised as follows. We have come across no recent instance of a university graduate entering the service; only about 1 per cent. of recruits have two or more G.C.E. passes at advanced level; a further 10 per cent. have five or more G.C.E. subjects at ordinary level; and in addition, some 20 per cent. have one to four G.C.E. subjects at ordinary level. These figures relate to recruits accepted in the usual way at 19 plus. Boys entering the service as cadets tend to possess rather higher educational qualifications. On the basis of these figures we commented that, while the police service attracts a substantial number of grammar school boys, most of them belong to the lower half of those who leave the grammar school at the age of 16.

309. In August, 1961, Your Majesty's Secretary of State presented to Parliament a White Paper([37]) containing proposals to alter the training arrangements of the police in England and Wales, and these proposals have implications for recruitment.

310. Under the Government's proposals a new course for constables, of twelve months' duration, is to be established at the Police College. Entrants will be selected from those who have obtained the highest marks in the examination in police subjects for promotion to sergeant; and an officer who successfully completes the course will receive automatic promotion to sergeant in his force. Similarly, it is proposed to reserve, for sergeants who qualify by examination, a proportion of the vacancies on the present six months' course which prepares sergeants for promotion to inspector. (At present all the sergeants admitted to this course are nominated by their police authority or chief officer of police.) A third proposal is to introduce a senior staff course, of a primarily professional character, designed to equip officers of the rank of inspector or above for the highest posts in the service. This course will be of six months' duration.

311. The Government's White Paper remarks that these new arrangements will make an important contribution to the development of the service; and, after recalling the well-established principle that senior officers should be drawn from the service itself, it proceeds

> "... It is therefore important, if the Service is to produce enough leaders of the right calibre, that training of the right sort should be made available to those who have demonstrated that they are suitable for higher rank. It is also important that the Service should be seen to offer attractive prospects for the recruit of good quality and that

([37]) Cmnd. 1450.

he should feel that he will be given the opportunity to use his talents to the best advantage. The working out of the new schemes outlined above will have to be carefully watched ; but it is believed that they will improve the ability of the Police Service to attract and train its own leaders, and enable the Police College to make an even greater contribution than at present to the efficiency of the Service."

312. We are extremely concerned that the conditions of entry and promotion prospects of the police service should be such as will attract a sufficient number of recruits who are likely to make good chief constables and other senior officers twelve, fifteen or twenty years hence. In the past, many men with distinguished careers lacked a university education, but this situation is rapidly changing: young men of ability now tend in increasing numbers to proceed to the universities. Consequently a system of police recruiting which shows no evidence of success in attracting a sufficient proportion of entrants of graduate standard endangers the future leadership of the service. Improvements in pay and new training arrangements will not by themselves cure this defect. The police play a vital part in our national life and well-being and it is deplorable that they, to a far greater extent than any of the other public services, law, commerce, industry or indeed any major branch of our national life, should for years have been failing to recruit anything like their proper share of able and well educated young men. We do not suggest that graduates are necessarily more likely than others to make effective chief constables: our concern is simply that the police today are not securing a sufficient share of the better educated section of the community

313. The reason for this failure is not, in our view, that the police service is inherently unattractive as a career, nor is it primarily attributable to the absence of a sure and speedy way to the top. It lies in the neglect of those responsible to adjust the opening stages of a police career, in the way that other professions have found it necessary to do, so as to attract able candidates. It cannot be doubted that it is the early prospects that influence most young people to choose one career rather than another. Nor does it call for any great insight or a deep knowledge of psychology to understand how the police service must appear at a disadvantage in this respect compared with almost any other profession today.

314. Our first recommendation concerns the minimum period of service before promotion to sergeant. At present a constable must, save in exceptional circumstances, serve three years after probation—a total of five years' service—before he can be promoted.[38] The period of five years must normally include two years' "ordinary outside duty". We do not accept that initiation into the duties of a constable or preparation for the rank of sergeant need always take so long. No doubt in most cases the period is not inappropriate, but we see no sufficient reason why a chief constable should be fettered, to a degree unparalleled in any other occupation, in the exercise of his own judgment as to when a man is ready for greater responsibility. Moreover, from the point of view of a graduate

(38) Police (Promotion) Regulations, 1956 (S.I. 1532), regulation 1 (1); Police (Scotland) Regulations, 1956 (S.I. 1999), regulation 15 (2). Formerly the period of five years excluded in England and Wales years of service under the age of 20, but this provision has now been revoked (Police (Promotion) Regulations, 1961 (S.I. 1793)).

considering the service as a career, a delay of five years, which cannot be altered to take account of his age, and gives him no chance to prove maturity and aptitude above the average, must appear an intolerable obstacle. We accordingly recommend that the minimum qualifying period for promotion to sergeant be reduced from five to three years, and that suitable modification be made in the length of service before a candidate may offer himself for the qualifying examination.

315. Our next proposal involves only a change of nomenclature, but one which some of us regard as not unimportant as a further means of improving the attractiveness of a police career. In our first report we stressed the unusual nature of the constable's responsibility compared with others of a subordinate rank. By the same token the police sergeant performs duties which are not to be compared with those of the Army non-commissioned officer from whom his title is borrowed. We heard evidence to the effect that the title "sergeant" is an honoured and popular one within the police service. But his name and his badge of rank are against him in the eyes of a potential entrant, who may be misled into thinking that the equivalent of commissioned rank in the police is not attained until the third rung in the ladder. A number of us think that consideration should be given to changing the title of sergeant to some such title as sub-inspector, with an appropriate modification of the badge of rank.

316. None of these measures will have any success in bringing men of high calibre into the service if they are not joined with a resolve on the part of those responsible for recruiting to use every available means to attract this kind of entrant. It is in our opinion vital that the concept of the police service as a career in which men of the highest ability can find their proper place should be maintained. We do not doubt that Your Majesty's Ministers are aware of the urgency of this requirement, and they ought not to shrink from bold and even controversial measures in order to secure it. It is essential, too, that the police service as a whole should accept the need not only for improvement in the general quality of recruits but also for an increased intake of outstanding men.

Promotion and transfer of police officers

317. In future, if our recommendation to relieve watch committees of their powers of promotion is adopted, the responsibility for promotion throughout Great Britain will be uniformly in the hands of chief constables. The training arrangements we have discussed have implications on promotion, since all those taking part in the new constables' course, and a proportion of those taking part in the sergeants' course, will have been selected not on their chief constable's nomination but on the basis of their performance in a national competitive examination. On successful completion of the course they will receive automatic promotion. This is a significant breach in the tradition of local autonomy that has hitherto prevailed with regard to promotion.[39] We believe that the trend is good, and that it should be further developed.

[39] It is true that for a number of years 90 per cent. of promotions to the rank of sergeant in the Metropolitan Police have been on a competitive basis, but the arrangement is local in the sense of being confined to a single force.

318. Different considerations apply to the filling of vacancies in the more senior ranks.[40] On the one hand, it is right that the chief constable should have personal confidence in those who, under him, are responsible for the oversight of his force and, therefore, that he should have a voice in their selection. On the other hand, the number of senior officers in all but the largest forces is small, and unlikely to provide an adequate choice of the men best fitted for higher office. The risk of stagnation and of unevenness of quality between one force and another is therefore greater among the higher ranks than in the lower. Moreover, it is in an officer's own interest (as well as in the interests of the service) to gain experience in another force. This is clearly recognised by the Home Departments' stated policy to refuse confirmation, save in exceptional cases, of the appointment of a chief constable whose service has hitherto been confined exclusively to the force to which he seeks appointment as chief constable. Effect should in our view be given to these considerations by introducing freer interchange at higher levels. This might be done by means of a system of promotion operating within police districts, by advertising vacancies, or by stipulating prescribed qualifications following a staff course.

Manpower: general

319. We were obliged to comment on a more general aspect of police manpower in a previous chapter, in observing that the sharing of responsibility for the efficiency of the police between central and local government allowed police pay to fall to a point at which the service was no longer able to attract sufficient manpower to give the public adequate protection. This should not be allowed to recur; and in future we should expect the Secretaries of State to assume a general responsibility for ensuring the adequacy of police pay. We accordingly recommend that, as a means of establishing the authority of the Government in regard to police pay and conditions of service, the Police Council for Great Britain, which is the negotiating body, cease to have an independent chairman; that, in the special circumstances of the police, the chairman be a senior official of the Home Office; and that the deputy chairman be a member chosen by the staff side. In this way the Council will be brought more closely into line with other negotiating bodies in the public service.

320. The need for the most economical deployment of manpower should be kept constantly in mind. We recommend that in the preparation of new legislation every effort be made not to impose on the police fresh duties which would diminish their concentration on fighting crime. To this end we also recommend that the present responsibilities of the police be reviewed with the aim of transferring to local government any duties which it is not absolutely essential that the police should perform themselves.[41]

321. A frequent complaint made to us is that the police spend too much of their time on traffic work, and too little in dealing with crime. We have

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(40) i.e. the ranks of chief inspector, superintendent and chief superintendent.

(41) The present range of police duties is reflected in the list of powers of chief officers set out in the memorandum of evidence submitted by the Association of Chief Police Officers of England and Wales (Minutes of Evidence 15, pages 868–869). The Scottish Home Department's memorandum (Appendix II to Minutes of Evidence, pages 48–51) discusses the "extraneous duties" of the police and the steps that have been taken to limit them.

discussed this with chief constables and other senior officers, and we find that they are sensitive to the need to strike a proper balance in allocating their limited manpower according to the demands of crime, traffic and administration. The police are paid at a level which recognises the importance of their work, and it is essential that they should not be employed on duties which can be adequately performed by people less highly paid. We applaud, for this reason, the recruitment of traffic wardens to relieve the police of responsibility for enforcing the parking laws and regulations, and we would like to see many more wardens. The employment of civilians to patrol school crossings provides another useful supplement to police manpower. But we think there is scope for further developments in this direction so as to relieve the police of as much traffic work as possible, and thus free more of their time and energies for dealing with crime. The inspectors of constabulary should take particular note of the practice in this respect in the forces under their supervision and be quick to encourage what seem to them to be useful developments. In particular we recommend, with a view to reducing the use of police officers on point duty to a minimum, that consideration be given to the employment of traffic wardens to regulate peak-hour traffic in the mornings and evenings in busy towns and cities; that more extensive use be made of traffic lights wherever appropriate; and that the maximum use be made of special constables on traffic duties. It is of interest to note that the Government Social Survey, whose findings we discuss in the next chapter, disclosed that both the police and the public regard traffic duty as the least popular and acceptable part of police work.

Power of the Secretaries of State to call for reports

322. We recommend that the Home Secretary be empowered to call for reports from chief constables on matters connected with the policing of the area. It is already the informal practice of the Home Office occasionally to ask chief constables to report upon matters of public interest, and we accept the necessity for this. As we said earlier, the practice has been given statutory recognition in Scotland, and we think it necessary that it should be placed on a statutory basis in England and Wales also.

323. There is another power, allied to that of calling for reports, which we think the Secretaries of State should possess. This is the power to decide, on the submission of a chief constable, whether it is against the public interest for him to comply with a request by a police authority for a report on a particular matter.[42] An advantage we see in this arrangement is that it will serve to regulate and guide relations between a police authority and a chief constable in a manner open to Parliamentary criticism.

Conclusions on the responsibilities and powers of the Secretaries of State

324. In this and in the preceding chapter we have endeavoured to frame a series of recommendations which will define the complementary rôles of the police authority and the central authority in the administration of the police service, and so remove any uncertainty due to overlapping responsibilities. By these measures we believe that it will be possible to secure most of the advantages of a unified service without losing the valuable link with local government—which in some ways we propose to strengthen

(42) See Chapter VI, paragraph 163.

—or significantly diminishing the powers of police authorities. It may be convenient here to sum up the combined effect of the responsibilities and powers which we propose should be accorded to the Secretaries of State.

325. Henceforth, under our proposals, Ministers will not merely be entitled to intervene in the local administration of the police where they have reason to suspect inefficiency: they will have a duty to do so. The administrative attitude of the central Departments towards police affairs will thus become positive. Their responsibility will be not merely to correct inefficiency, but to promote efficiency. With the advice of a strong professional element, incorporating a central research unit, they will for the first time be in a position to raise standards of equipment and of policing uniformly throughout the country. The development of a comprehensive manpower policy will promote the most economical and effective deployment of men. Forces too small to be thoroughly efficient will be amalgamated with others to make larger units. All forces will be commanded by chief constables appointed with the full approval of the Secretary of State, and their continued tenure of office will also be subject to his approval. There will be effective arrangements to secure the collaboration of groups of forces and to provide ancillary services. All this activity will have the backing of statutory powers; and with these, and the power to call for reports, the Secretaries of State will be accountable to Parliament for the efficient policing of the whole country.

CHAPTER VIII

THE POLICE AND THE PUBLIC

326. It is not because the subject lacks importance that we have deferred our comments on the relationship between the police and the public to this stage of our report. On the contrary, the importance of this relationship has been present to our minds throughout the course of our inquiry, and it has influenced all our recommendations. It is no exaggeration to say that the police cannot successfully carry out their task of maintaining law and order without the support and confidence of the people. The police and the community are one. The police act for the community in the enforcement of the law and it is on the law and on its enforcement that the liberties of the community rest. In the next chapter we are at pains to ensure that there are adequate safeguards against arbitrary action by the police which might unjustly interfere with the liberties of individuals. It is equally essential that the police should have full and complete popular support in their principal task of ensuring that public liberties are not put in peril by lawbreakers of any kind.

327. Much of the evidence we received was devoted to establishing whether the relationship between the police and the public is satisfactory or otherwise, and whether it has improved or deteriorated in recent years. These comparative questions obscure, or perhaps overlook, a more fundamental question: whether there is a peculiar quality in the relationship between the police and the public of this country, in terms of which we can make assessments of improvement or deterioration from time to time. We believe that there is. It is attested by the foreign visitor whose favourable comments on our police are well known, and it is demonstrated in the common every-day instances in which people instinctively consult a policeman when in difficulty or perplexity even of a minor kind. Perhaps it is a fact of little objective importance that the British consider their police to be the best in the world;(1) but it is not generally disputed that there is a kind of relationship between the policeman and the man in the street in this country which is of the greatest value.

328. Various theories have been advanced to account for this. Some explain it in terms of the long, slow, organic growth of British institutions —forgetting that the police service in recognisably modern form goes back little more than a century. Others trace it to the inherent willingness to abide by the law and to the tolerance of the British character—ignoring the fact that when the first policemen made their appearance on the streets of London, and for some years afterwards, they were greeted with united and undisguised hostility, involving much brutality and several cases of savage assault. To us it appears that, so far as an explanation of the

(1) The Government Social Survey found that this proposition was assented to by 80 per cent. of those interviewed: of the remainder only 3 per cent. were prepared to deny it categorically.

success of the British police is to be sought in constitutional factors, first place must be given to the subjection of the constabulary, in all their activities, to the rule of law, and the refusal to arm them with powers substantially different from those of the ordinary citizen under the common law. With these principles the police have been compelled to rely on the sympathetic and active co-operation of the community as a whole. Secondly, great credit is due to the early pioneers of the Metropolitan force, and to their successors, for inspiring in the police a great tradition of service to the public.

329. The policy laid down in the original instructions to the Metropolitan Police 130 years ago still stands as a creed learned by heart by all recruits to the force. It runs as follows :—

> "The primary object of an efficient Police is prevention of crime: the next that of detection and punishment of offenders if crime is committed. To those ends all the efforts of Police must be directed. The protection of life and property, the preservation of public tranquillity, and the absence of crime, will alone prove whether those efforts have been successful, and whether the objects for which the Police were appointed have been attained.
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> In attaining these objects, much depends on the approval and co-operation of the public, and these have always been determined by the degree of the esteem and respect in which the Police are held. Therefore every member of the Force must remember that it is his duty to protect and help members of the public, no less than to bring offenders to justice. Consequently, while prompt to prevent crime and arrest criminals, he must look on himself as the servant and guardian of the general public and treat all law-abiding citizens, irrespective of their race, colour, creed or social position, with unfailing patience and courtesy.
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> By the use of tact and good humour the public can normally be induced to comply with directions and thus the necessity for using force, with its possible public disapproval, is avoided. He who in this way secures the object he has in view is a more useful police officer than his comrade who, relying too much on the assertion of his authority, runs the risk of seeing that authority challenged and possibly, for the time being, over-borne. If, however, persuasion, advice or warning is found to be ineffective, a resort to force may become necessary, as it is imperative that a police officer, being required to take action shall act with the firmness necessary to render it effective."(2)

330. These instructions admirably summarise the requirements for a sound relationship between the police and the public. They should in our opinion be impressed upon all recruits to the police service, not only on recruits to the Metropolitan force, during their initial training. We accordingly recommend that instructions on these lines be included in the syllabus of every recruit's training.

(2) Minutes of Evidence 20, pages 1156–7.

Evidence on relations between the police and the public

331. There was an acute conflict of evidence whether or not the pre relationship between the police and the public is better or worse tha the past. The witnesses representing the central departments, p authorities, and chief officers of police, were unanimous in holding there was no evidence of significant deterioration in recent years. was also the view of representatives of the motoring associations an the police surgeons. A few witnesses in this group thought relations between the police and the public had actually impr Another group, which included the Superintendents' Association England and Wales and of Scotland and the Police Federation of Eng and Wales, believed that relations were possibly slightly worse than used to be. Yet a further group of witnesses submitted that there been a significant decline, some even holding that the traditional stan of the police was in grave danger. This third group included the Sco Police Federation, the Magistrates' Association of England and W and a number of organisations either representing or drawing their men ship from the legal profession.(3)

332. It is difficult to explain completely why those who gave evid to us, almost without exception representatives of bodies with much ex ence of police conduct over many years, should have come to such radi different conclusions. Perhaps there is a tendency for any judgmen such an intangible subject as the popularity or otherwise of a cla public servants to be too subjective to be wholly reliable if it is base personal experience alone. It was because we recognised this diffi that, early in our enquiry, we asked the Government Social Surve division of the Central Office of Information, to undertake a survey i attempt to establish authoritatively both what the British public thin the police, and what the police think about the public. We summaris findings of this survey in paragraphs 338–350.

333. Although we have described the evidence we received from principal witnesses on the present state of relations between the p and the public as being in acute conflict, we have found much val analysing it in detail.

334. We have noted, both among those who hold that there has a general decline in the relationship between the police and the p and among those who hold that there has not, a substantial area of a ment as to the factors which at present imperil this relationship. almost all the evidence draws attention to the changed attitudes, as pared with those of pre-war days, of the public with whom the police to deal; a decay in respect for properly constituted authority and a t ency to question the justification for measures which formerly would been accepted without challenge; an upsurge of wanton mischief; a variety of social changes, particularly the increase in the vehicle-ow population, which have brought the constable into contact with sec

(3) These bodies were the Law Society, the Society of Labour Lawyers, the Inns of Conservative and Unionist Society and the Bow Group. The evidence of the Instit Journalists, the Institute of Public Relations and the National Council for Civil Lib was also in this sense.

of the community with whom previously he had few if any dealings. We entirely accept the force of these observations, and the inference which many witnesses drew from them, that if the relationship between the police and the public is to be preserved, let alone improved, the constable of today must be better equipped and better trained than his predecessors. Other alleged sources of danger to the standing of the constable, such as the influence of the press, the duty to enforce unpopular laws, and the lack of consistency in the enforcement of traffic regulations, we discuss later in this chapter.

335. The evidence of witnesses who represented the legal profession, on the other hand (who were unanimous in thinking that the relationship between the police and the public had deteriorated), concurred in finding the cause of the alleged deterioration partly in malpractices of the police themselves, and in particular in a tendency among certain police officers, to quote the memorandum of the Law Society, to "colour or exaggerate evidence"(4) or, in the stronger words of the Bow Group, "occasionally . . . to commit perjury in order to secure the conviction of prisoners whom they believe to be guilty".(5) The preoccupation of the legal witnesses with the behaviour of the police in the courts may well have led them to exaggerate the significance of occasional allegations of this kind. But, to the extent that they occur, such practices must be strongly condemned, both on moral grounds and also because they, probably more than anything else, can shake public confidence in the police and, by reducing the esteem in which they are held, injure their relations with the public. We return to this point in paragraphs 369–371.

336. The most severe expression of anxiety about relations between the police and the public came from the National Council for Civil Liberties. They declared that there was obviously something "radically wrong" in these relations.(6) This situation they attributed to a variety of causes, mostly within the competence of the police themselves to remove. These included what the witnesses regarded as irregular means of obtaining evidence, the use by the police of unnecessary violence, ineptitude in handling processions and in dealing with political and industrial demonstrations, and the absence of any independent means of redress against the police.

337. We can best sum up the evidence we have discussed so far by saying that most of the organisations who appeared before us felt concern about the present state of the relationship between the police and the public, and even those who did not express anxiety tended to adopt a defensive attitude rather than a positively optimistic one.

The survey of relations between the police and the public carried out by the Government Social Survey

The views of the public

338. The findings of the survey constitute an overwhelming vote of confidence in the police, and a striking indication of the good sense and

(4) Minutes of Evidence 19, page 1077.
(5) Minutes of Evidence 24, page 1300.
(6) Minutes of Evidence 13, page 761.

discrimination of the bulk of the population in their assessment of the tasks that policemen have to carry out. It is clear that such change as there has been in public opinion in recent years has been mainly in favour of the police. We therefore assert confidently, on the basis of this survey, that relations between the police and the public are on the whole very good, and we have no reason to suppose that they have ever, in recent times, been otherwise. This is a finding which we believe will give great satisfaction to Your Majesty, to the police, and to the public.

339. The views of the public were assessed on the basis of interviews with a sample of people whose names were drawn by random selection from the electoral register, together with an additional random sample of young people aged between 18 and 20, who are not on the register. The samples were devised in such a way as to be representative of the total population in terms of the proportions living in different regions of the country, in urban and rural areas, and in districts of different economic level.

340. No less than 83 per cent. of those interviewed professed great respect for the police, 16 per cent. said that they had mixed feelings, and only 1 per cent. said that they had little or no respect for them. The more critical sections were the younger informants (in the 18–25 age group), motorists, and people living in urban areas. Most informants said that their feelings towards the police had not changed over the past 10 years, but of those whose feelings had changed the majority thought more highly of the police now than they had done previously. Again, of those who thought the police had changed in their manner towards the public in recent years the majority thought the change had been for the better rather than the worse.

341. Any suggestions that the police ever took bribes, used unnecessary violence, employed unfair means of getting evidence, or gave false evidence in court were repudiated by almost half of those interviewed; and of those who did suspect that these practices occasionally occurred or were prevalent only a few claimed personal knowledge. There was, as might be expected, a high correlation between those who had a poor opinion of the police and those who had experienced what seemed to them unfair treatment at their hands. But even among this last group a significant number were inclined to think that they had merely been unlucky in encountering conduct below the standard they expected. Motorists were little less ready than other informants to show understanding of the difficulties under which the police work.

342. In general, the public were conscious of their failure to help the police adequately, whether as householders, motorists or potential witnesses in criminal cases. Moreover, in assessing the public's own behaviour, nearly half of the informants thought that there had been a decline in standards in recent years.

343. The survey revealed three features in the relationship between the police and the public which are less reassuring. One, a measure of dissatisfaction with the arrangements for handling complaints, will be discussed in the next chapter. A second concerned the youngest groups of informants (aged 18–25). Their answers showed a measure of antipathy towards the

police. The third concerned relations between the police and the motoring public, and we deal with this in paragraphs 382–393.

The views of the police

344. The survey of police opinion, based on interviews with a sample of constables and sergeants, produced results which are in some respects strikingly at odds with the survey of public opinion. They reveal much self-criticism.

345. A little over two-thirds of the police interviewed thought that there had been a change for the worse in the general public's opinion of the police, and about one-third thought that police behaviour had deteriorated. It will be seen that in these matters the views of the police were in sharp conflict with those of the public.

346. There was, however, an area of agreement. The police, like the public, thought that the principal blame for any worsening of relations should be attributed to two sections of the population—young people and motorists. The police expressed the view that young people had grown increasingly resentful of authority; and that the public in general were more knowledgeable about the law and their rights than in former times. They maintained that they received inadequate help from the public when they were seen to be in trouble, and they were on common ground with the public in thinking that they should spend less time on the enforcement of traffic regulations and more time on crime detection and prevention and on beat patrols.

347. There were two other points about which the police expressed a degree of anxiety. About two-thirds of the police informants thought that the press had an influence on the relations between the police and the public, and a little over one-half thought that this influence was bad. Again, about two-thirds of the police informants also observed that the police experienced difficulties in having friendships with people outside the force. The reason generally given for these difficulties was that the public were inclined to be suspicious and reserved in the company of policemen.

348. In evaluating this evidence it is worth recalling that the interviews on which the survey was based were conducted shortly before we presented our interim report on police pay. There may, therefore, have been grounds at that time for depression and a low state of morale among the police which could have affected their judgment on the questions put to them. We are inclined to think, however, that the cause of the sensitivity of the police as revealed in this evidence, and of their readiness in self-criticism, lies deeper.

Conclusions from the survey

349. In commenting on the findings of the survey the author of the report observes that members of any public service who wear uniform are particularly vulnerable as an easily identifiable target for expressions of hostility towards authority, and that the police are the most vulnerable of all. The author goes on to say:—

> "It follows that the police are continuously in a defensive position and any real or imagined criticism from individuals or sections of

the general public, the press, or authorities such as the courts or Members of Parliament, is liable to produce in the police mind a distorted impression of what the public in general feel about them. There is no way in which the police can assess changes of opinion in their favour, as praise is less likely to be expressed than criticism. The findings of this survey support this contention to a very large extent in that the majority of the police thought that the public's opinion of them had changed for the worse whereas, in fact, it had changed for the better rather than the worse".

350. A study of this valuable report reveals an attitude of mind on both sides that augurs well for the continuance of good relations between the police and the public in years to come. But this is not a matter that should be left to chance or good luck, for the survey indicates certain harmful features which, if uncorrected, could impair this relationship :—

(*a*) There are definite indications of antagonism towards the police among two important sections of the community—young men and women, and motorists. We deal in paragraphs 382–393 with the question of relations between the police and the motoring public. The author of the report suggests that further study of the problem posed by the attitude of younger people seems to be called for, and we agree with this.

(*b*) Both the public and the police agreed, and expressed concern, about what was regarded as a decline in public standards of behaviour.

(*c*) The police and the public also shared the view that the public show insufficient readiness to help the police.

(*d*) The inaccuracy of police opinion as to their standing in the eyes of the public is probably attributable to their sense of isolation. They feel that they have inadequate opportunities to answer what they regard as unfair comment about police activities. This points to the need for better liaison between the police and the press, and a more positive attitude by the police towards public relations—matters with which we deal at the end of this chapter.

351. This report enables us to deal more confidently with suggestions put to us for improving relations between the police and the public, and in so doing we take account of the features mentioned above to the extent that they lend themselves to Government action. Some of the suggestions can be put into effect by the police themselves. Others depend on the co-operation of outside bodies. All have a common aim—to foster understanding and confidence between the police and the public.

Some ways in which the police can improve their relations with the public

352. In our interim report we stressed the importance of having a sufficient number of constables on beat duty in close touch with the public. It was clear from the evidence which we subsequently received that this view of the importance of having plenty of uniformed policemen on the streets was shared by representatives both of the police and of the public.

The Commissioner of Police of the Metropolis went so far as to express the opinion that

> "The policeman in a car, on a motorcycle, or absent from his beat becomes a cipher . . . the greatest safeguard of public relations, as well as the greatest preventive measure against crime, lies in making good deficiencies on the beats."(7)

In spite of the heavy and conflicting demands on their limited resources we regard it as most important that chief police officers should bear in mind the need to allocate an adequate number of men to beat duties, where they will be in touch with the public.

353. A practice brought to our attention by the Police Federation(8) and the National Council for Civil Liberties(9) is that of housing police families *en masse* in blocks of flats cut off from the rest of the community. We are glad to note that this is now tending to fall into disuse, and that the more usual practice nowadays is to allot a house in a residential area for the tenancy of the constable who is to police that area. We have seen this arrangement in several parts of the country, and the families whom we met testified to its value as a means of breaking down barriers between the police and the public. Some even thought it could be too efficient since the police station came to be regarded as a compendium of surgery, local advice bureau and marriage guidance centre. Ideally, a constable should regard himself, and be regarded, as a member of the community, relying on the goodwill and help of his neighbours, and helping them.

354. A related point concerns the policy of transferring constables from one place to another, particularly in county forces. We were told that it is often thought unwise to station an officer in a village for longer than three to five years in case he becomes too familiar with his neighbours. Some police witnesses deprecated what they called this "innovation" and recalled the time when a constable might remain in a station throughout his career and even after promotion to sergeant, and when "the sound of known feet" was one of the principal ingredients in the policeman's authority over the young. We do not think that it would be useful for us to make any general recommendation on this matter, which is to some extent bound up with the present shortage of policemen. But we should expect chief police officers to review their practice in this respect from time to time.

355. The foregoing points are largely matters of internal organisation. In addition, we think that there is much scope for cultivating good relations between the police and the public by increasing formal and informal contacts, and by encouraging people to visit police headquarters, so as to educate the public towards a better understanding of police work and problems. We found that the police were in general alive to this need. It is a common practice for the police to give talks to school children, organised bodies and societies, motorists, animal lovers, people interested in civics, and to a variety of professional men and technicians. Policemen also give their leisure time to helping or instructing in youth or sporting clubs. They give road safety lectures, instruction on cycling,

(7) Minutes of Evidence 20, page 1158.
(8) Minutes of Evidence 18, page 1035.
(9) Minutes of Evidence 13, page 762.

and talks on citizenship. These arrangements seem to us to constitute one of the most effective means of bridging the gap which the Social Survey found to exist between the police and young people. We recommend that all chief officers of police review the scope of activities of this kind in their force with a view to developing them so far as possible, so long as they do not interfere with police work.

356. The subject of relations between the police and the public is included in the syllabus of the training schools for recruits. Policemen are taught from the beginning of their service the need for patience, tact and civility in dealing with others, and from our own observation we should say that in general they live up to what they are taught.

357. No training, however, can prevent the occasional complaint of incivility, not infrequently due to immaturity. The best way of preventing complaints of this kind is obviously to recruit into the police service only those who possess in ample measure the qualities which go to make the good policeman,[10] so far as these can be judged at the time of entry, and by sound training, leadership and discipline. Beyond this, the police can do no more than ensure that the complaint, when it comes, is properly and fairly dealt with, bearing in mind the interests and circumstances of both the complainant and the policeman concerned. For the maintenance of good relations between the police and the public must necessarily depend upon the police being held in high esteem. This esteem can never be taken for granted. It can easily be endangered if, however mistakenly, the public should lose confidence in the will of the responsible authorities, and in particular chief constables, to deal promptly and impartially with complaints against police conduct. This is a matter with which we deal in the next chapter.

358. There appears to be a widespread belief that a policeman's prospects of promotion to higher rank are related to the number of convictions he is able to secure. We questioned witnesses from all ranks of the police service closely on this matter and are satisfied that the minds of senior officers are not influenced, when considering a man for promotion, by the number of convictions he has secured. On the contrary, we understand that the policeman who spends his time making an unreasonable number of reports is unpopular with both his own colleagues and his superior officers.

359. We think that the recruitment of special constables is of great value in promoting relations between the police and the public. They provide a natural link between the two. They understand police work and problems, and in their own homes and places of work they can do much to paint a favourable picture of the police and to dispel the mischievous allegations about police misconduct which tend to circulate in the absence of effective publicity. A strong, well-organised and well-led contingent of the special constabulary can, we believe, be a very great asset to any force. We accordingly recommend that, where contingents of special constables are

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[10] We described these in our interim report as "physical toughness, mental alertness, a long-established reputation for honesty and fair dealing, tact, kindness, courtesy and a sense of humour".

weak, police authorities and chief officers review their recruiting arrangements in order to bring them up to strength.[11]

360. Special constables form a valuable reserve of manpower—not only for use in times of emergency. It is the practice in some forces to employ special constables on traffic duty, particularly at weekends during the summer. We think that this should be encouraged, and that all chief constables should ensure that the best possible use is made of them. Before 1914 their use in England and Wales was restricted to riots, tumults and similar civil emergencies, but they can now legally be used for the same purposes as the regular police. The position in Scotland is different, and special constables are subject to a statutory restriction limiting their employment to occasions of emergency, for the purpose of preventing or suppressing riot or tumult, or for the purpose of gaining practical experience of police work.[12] The Scottish Home Department have issued instructions limiting the employment of special constables to not more than twelve hours of outdoor duty each year.[13] The Chief Constables' (Scotland) Association told us that these restrictions have had a depressing effect on the recruitment of special constables in Scotland.[14] We can see no justification for such restrictions, and we recommend that they be removed.

Responsibility of the public

361. The finding of the Social Survey, based on the views of both the police and the public, that the public do not help the police enough, poses an intractable problem. The importance of adequate public co-operation with the police cannot in our view be over-estimated. We entirely endorse the following remarks of the Chief Constables:—

> "The successful maintenance of law and order depends as much upon the existence of police confidence in public support as the public trust in the police. The task of the policeman today is more difficult and complex than ever before and provided he acts reasonably and conscientiously he is entitled to expect the full support of the public and the courts. Unfair criticism carried too far and a failure to understand the difficulties that daily beset the police must in the long run cause even the most loyal and conscientious officer to lose confidence in himself and interest in his duties. It is, therefore, vital for both the public and the police that a mutual regard each for the other should be reaffirmed and maintained."[15]

362. Several witnesses stressed that people today are better educated and more conscious of their rights than in former times, but that better education has not brought a realisation of the duties and obligations which ought to be assumed by any member of a civilised society. We cannot emphasise too strongly that the interests of the police and those of the public are identical. The police are recruited from the public, and they remain members of the general body of citizens. They rely on the

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(11) The percentage of special constables to regulars in county forces is about 120 per cent., in cities and boroughs outside London it is about 40 per cent. and in London it is only 15 per cent.

(12) Police (Scotland) Act, 1956, s. 4 (1).

(13) Appendix II to Minutes of Evidence, pages 47–48.

(14) Appendix III to Minutes of Evidence, pages 15–16 and 18.

(15) Minutes of Evidence 15, page 863.

public, just as the public rely on them. Without mutual confidence and goodwill a service composed of less than one hundred thousand unarmed citizens, possessed of few powers which are not shared by all members of the public alike, could not maintain law and order among a population of over fifty millions. No recommendation of ours can arrest a decline in social responsibility. We can do no more than point to its effects.

363. Many crimes are made possible because people neglect to take the simple and elementary precautions of locking their houses when they go out, guarding their property, locking the doors of their cars, and so on. This kind of encouragement to criminals wastes the time and energies of the police, whose resources are already far too much occupied with the vast quantity of petty offences which swell the criminal statistics. Equally, the police may be frustrated by the selfishness of those who could give information about crimes or accidents but are not prepared to come forward with it. We think it worth recording the view put to us by experienced members of the legal profession in giving evidence on behalf of the Sheriffs-Substitute Association:

> "The fact that so many crimes go unpunished is, in our view, due to the lack of co-operation by the general public and not to any lack of vigilance or tenacity on the part of the police".(16)

364. There are indications that our society may be entering upon a period of increasing strain between the authorities and certain minority elements. In a situation of this kind the police, in carrying out their task of maintaining law and order, tend to be regarded, mistakenly, as agents of the state and not of the law. Young people, particularly, may be misled into this error, for it is natural to youth to espouse radical views and to challenge established authority. We are attracted by a suggestion put to us by the Magistrates' Association that there should be consultation among the Government Departments concerned with a view to including in the school curriculum some instruction on the duties and functions of the police and their need of help from the ordinary citizen.(17) We recommend that the scope for instruction on these lines be explored. The press and broadcasting authorities also have a responsibility towards the community in the image of the police that they present, and we deal with this at greater length in paragraphs 394 to 411.

The police, the courts and the criminal law

365. The duties of the police in relation to the administration of justice fall outside the scope of our inquiry. But there are particular aspects of the relations between the police and the courts, and of their relation to the criminal law, on which we accepted evidence as relevant to the broad question of relations between the police and the public. This evidence may be grouped under the following heads:—the conduct of the police in dealing with suspected or accused persons and in giving evidence; suggestions that the police are too closely identified in the public mind with the courts; suggestions that the police may suffer loss of popularity because they have to enforce laws with which the public are out of sympathy, and because law enforcement is erratic; the duty of the police in England and Wales, but not in Scotland, of deciding whether to bring a prosecution; and the rôle of the police as prosecutors.

(16) Appendix II to Minutes of Evidence, page 107.
(17) Minutes of Evidence 14, page 790.

Police questioning and evidence

366. In our interim report, and again in this report, we have from time to time stated our opinion that the police constable should be looked upon as a friend, that he should be approachable, and that, in the words we used in our first report, he should "set an example of old-fashioned virtues".

367. There is one respect in which this view of the constable must be qualified. It is no part of his duty to be relaxed, kindly and indulgent towards wrongdoers. He must always be fair, but there are occasions when he must be sternly authoritative. His manner and address must be adjusted to the occasion. To some policemen this adjustment is probably instinctive, but to others it may come less easily. It is here that the mistakes occur which are most likely to result in complaints from the public. To magnify a minor breach of a traffic regulation into a grave offence, for example, is to invite a complaint.

368. Similar considerations apply to the treatment of persons held by the police for questioning. It is probably inevitable that a suspect whom a police officer already knows to have a criminal record should be interrogated more thoroughly and perhaps more aggressively than a man about whose antecedents nothing is known. The procedure of the police in obtaining statements and confessions is regulated in England and Wales by the Judges' Rules, which are at present under review by the Lord Chief Justice and his colleagues, and we do not, therefore, deal with this matter in this report. Nor have we heard evidence about the admissibility in court of statements obtained from persons before their arrest—a subject which two witnesses (Justice and the National Council for Civil Liberties) invited us to examine. But there are some general questions relating to the procedures adopted by the police in obtaining evidence from suspected persons about which we have received a certain amount of evidence, and on which it is our duty to comment.

369. There was a body of evidence, too substantial to disregard, which in effect accused the police of stooping to the use of undesirable means of obtaining statements and of occasionally giving perjured evidence in a court of law. Thus the Law Society suggested that the police sometimes use guile, and offer inducements, in order to obtain confessions, in the belief that irregular means of securing the conviction of a person whom they believe to be guilty are justifiable in the public interest, and that occasionally police officers colour, exaggerate, or even fabricate the evidence against an accused person. These criticisms applied, in their view, only to isolated cases.(18) The National Council for Civil Liberties gave a few examples of cases in which the courts had refused to convict, apparently because the police evidence was disbelieved or because it was based on confessions which were held not to have been voluntary.(19)

370. Practices of this kind, if they exist (and evidence about them is difficult to obtain and substantiate) must be unhesitatingly condemned. The citizen's defence against police misconduct before the courts must be the courts themselves, and it is in our view essential that any suspicion

(18) Minutes of Evidence 19, pages 1072 and 1077.
(19) Minutes of Evidence 13, pages 731–4.

that a court may have regarding the veracity of police evidence should be properly ventilated. We should expect a chief constable to take the most serious view of such an allegation and to make thorough inquiries into it. The fact that the evidence is not strong enough to justify a charge of perjury should not exclude disciplinary action where there has been exaggeration or suppression of evidence because it would assist the accused. If a police officer is found to have committed an offence of this kind he should, in our opinion, be adequately punished. The excuse that the officer's only object was to secure the conviction of a guilty man ought not to carry any weight at all. For it cannot be too strongly emphasised that a police force in which dishonesty of any kind is connived at cannot hope for long to retain the confidence of the public.

371. We understand that in most courts a police inspector is present to ensure the attendance of prosecution witnesses. We recommend that a responsibility be placed on the senior police officer in attendance at court to transmit to the chief constable any criticism of police witnesses that may be made by the court, and also himself to note any features of police evidence that call for subsequent comment. This duty should not of course be undertaken in a hostile spirit, and we should expect the court inspector's report to include commendation as well as criticism.

372. Among the specific criticisms of the police which came to our notice was a complaint by the National Association of Probation Officers that the police sometimes try to persuade suspected persons to plead guilty by suggesting that if they do they will be treated more leniently.(20) This is an obviously undesirable practice, particularly if, as has been suggested to us, it is used in relation to children: and it should be firmly checked by chief constables.

373. It would be quite wrong, and inconsistent with the weight of responsible evidence, to suggest that the occasions when police officers use irregular means of attempting to secure a conviction are at all frequent. The proportion of informants who told the Social Survey that they had personal knowledge(21) of the police accepting bribes was 2 per cent., and about half these incidents were said to have happened over 10 years ago. Again, only 3 per cent. of the informants claimed to have personal knowledge of police using unfair methods to get information, and only 3 per cent. said they had known personally of cases where the police had "twisted" evidence—and half these incidents, too, were stated to have happened over 10 years ago. Thus the proportion of people claiming personal knowledge of police misconduct in these respects within the last 10 years is of the order of 2 per cent. Bearing in mind the animosity which a section of the population tends to have towards the police we do not think this finding gives ground for concern, and we are fortified in this view by the comments of two experienced groups of witnesses who have daily opportunities of observing the behaviour of the police in the courts. The Sheriffs-Substitute Association told us:

> "The police are, on the whole, fair-minded and intelligent witnesses, ready to make concessions to defending solicitors or counsel in the

(20) Minutes of Evidence 21, page 1221.
(21) "Personal knowledge" covered incidents which the informant had himself or herself been involved in, or had actually seen happening.

interests of truth and justice, even where the apparent effect of such concession is to weaken the Crown case ".[22]

That is the view of experienced lawyers in Scotland. The Justices' Clerks' Society, speaking from experience throughout magistrates' courts in England and Wales, reported:

> "We are satisfied that no substantial or general criticism of the police is justified in respect of those aspects of their work with which magistrates' clerks are concerned. On the contrary, we continue to be impressed with the fair and impartial manner in which the overwhelmin majority of police officers carry out their duties in an age when certain elements of society are not as amenable to discipline as in the past ".[23]

374. During the course of our inquiry we heard from witnesses representing a wide range of interests a great many tributes to the integrity of the police. We also wish to record the fact that letters to the police from members of the public expressing appreciation and thanks greatly outnumber letters of complaint. We regard it as particularly necessary to stress this, because our terms of reference require us to concentrate attention on complaints and not on expressions of gratitude.

Relation of the police to the courts

375. We agree with witnesses that anything which gives a mistaken impression of the respective functions of the police and the courts is better avoided. The Scottish system of independent public prosecution is valuable in this respect, but the use of the titles "police court" and "police judge" persists in Scotland. The term "police court" has now been officially discontinued in England and Wales, and we recommend that the titles "police court" and "police judge" be discontinued in Scotland. We also agree with suggestions made to us by the Magistrates' Association and others that civilian ushers should, wherever possible, replace police officers in magistrates' courts, with the additional advantage of saving police manpower.[24]

376. Another point made in the evidence was that witnesses are often put to considerable hardship through the inadequacy of organisation in some courts and the low rates of witnesses' allowances. As a result, the police may, quite unjustifiably, attract criticism. This is a matter which lies outside the scope of our inquiry, but we should expect the authorities concerned with court procedure to do everything possible to limit the inconvenience caused to witnesses.

Enforcement of unpopular legislation

377. We heard frequent suggestions that social legislation should be modernised, with the aim of bringing it so far as possible into harmony with public opinion, although many witnesses recognised that much legislation of this kind, including the betting and gaming laws, the licensing law and the law relating to street offences, has already been reformed in recent years. There are two points here. The first is that a law which is

(22) Appendix II to Minutes of Evidence, page 107.
(23) Appendix III to Minutes of Evidence, page 8.
(24) Minutes of Evidence 14, page 791 and Q. 2650–2651.

not easily enforceable, and the need for which is not widely accepted, tends to be a bad law because it brings the whole body of law into disrepute. The second point is that the police tend unfairly to incur resentment if they seek to enforce laws of this kind. They have no discretion to be selective in regard to the laws that should be enforced, and it is the responsibility of Parliament, as Your Majesty's Government have recognised, to review social legislation from time to time to see how far it can be brought into accord with modern ideas and requirements. We are most anxious that it should always be made clear that the police are not the makers of the law. While the law remains as it is the police must enforce it. Those who desire to protest against or alter the law should remember this and not direct their demonstrations against police who are merely doing their duty.

Uniformity of law enforcement

378. A related cause of complaint was that the police tend to enforce laws unevenly and erratically. An instance of this mentioned to us was the law relating to homosexuality. The Inns of Court Conservative and Unionist Society submitted that prosecutions for homosexual offences should be brought only by the Director of Public Prosecutions, so as to obviate the present discrepancies in the enforcement of the law—a point to which the Wolfenden Committee drew attention.([25]) This is a matter which lies outside our terms of reference, but one which we think might well be reviewed by Your Majesty's Government. The road traffic laws constitute the other main field in which law enforcement tends to be uneven, and we deal with this below.

379. A much more far-reaching suggestion concerned the responsibility which at present lies on chief officers of police in England and Wales, but not in Scotland, to decide whether or not to prosecute in a particular case. We were asked by the Inns of Court Conservative and Unionist Society, the Magistrates' Association, the Justices' Clerks' Society and other witnesses to recommend the introduction in England and Wales of a system of public prosecutions similar to that in Scotland.([26]). The advantages claimed for this were, first, that it would minister to good relations between the police and the public if the decision to prosecute were placed in other hands; secondly, that it would be in the public interest to relieve the police of their present unregulated discretion in this matter; and thirdly, that a system of independent public prosecution would make for greater uniformity in the enforcement of the criminal law. Such a major change in the machinery for the administration of justice in England and Wales lies doubtfully within our terms of reference, and we have not therefore received or sought the full and detailed evidence on this matter on which any recommendation would have to be based.

380. We do, however, endorse an alternative recommendation([27]) made to us by the Magistrates' Association, the Law Society and other witnesses that the police in England and Wales should have more legal advice in

([25]) Minutes of Evidence 11–12, page 699.
([26]) Minutes of Evidence 11–12, pages 698–9; 14, page 824; Appendix III to Minutes of Evidence, page 12.
([27]) Minutes of Evidence 14, page 826; 19, page 1078.

deciding upon prosecutions or in issuing summonses than is the present practice in some areas. We recommend that consideration be given to the appointment of a prosecuting solicitor for every force where this is not already the practice.

Police advocacy

381. We also recommend that the employment in England and Wales of police officers as advocates for the prosecution be reviewed. The practice in this respect varies from place to place. In some large cities salaried lawyers are employed to undertake police prosecution, but elsewhere we understand that full-time police prosecutors undertake this duty. There is also much variety in the type of offence which is regarded as appropriate for police advocacy. In general, we think it is undesirable that police officers should appear as prosecutors except for minor cases. In particular, we deplore the regular employment of the same police officers as advocates for the prosecution. Anything which tends to suggest to the public mind the suspicion of alliance between the court and the police cannot but be prejudicial.

The police and the motoring public

382. We are not concerned, in the following paragraphs, with the traffic law, with the manner in which the police handle road traffic, or with problems of road safety, except to the extent that these matters bear on the relationship between the police and the public.

383. The evidence before us showed that an important—according to some witnesses the most important—factor affecting relations between the police and the public today is the problem of enforcing the traffic laws. It is probably as motorists that ordinary men and women most often have dealings with the police.

384. We noted earlier in this chapter that the findings of the Social Survey indicated some hostility towards the police on the part of motorists. This finding was not, however, borne out by the evidence given to us by representatives of the motoring associations.(28) These witnesses told us that they have for a long time enjoyed close relations with the police service, that they regarded it very highly, and that the police had been most helpful to them. Justified complaints by members of the motoring associations of oppressive or uncivil conduct by the police were very rare, and when they were investigated it generally appeared that the motorist concerned had been truculent.

385. This is satisfactory so far as it goes, but we do not think that it can be taken as a refutation of the Social Survey's more general finding as to the attitude of motorists towards the police. The man who goes the length of lodging a formal complaint with a motoring association is probably unrepresentative of the general body of the motoring community. He is, in any event, concerned to air a grievance against an individual police officer rather than against the policies adopted by the police in enforcing the traffic laws. For it was in this wider field that we heard responsible criticism directed both against the present state of the law and against the manner in which it is enforced by the police. The gist

(28) Minutes of Evidence 17, pages 997–1022.

of this criticism was that some sections of the present law do not command general approval and acceptance; and that other provisions of the law, which are acceptable to public opinion, tend to be enforced unevenly. It was submitted, on the basis of this criticism, that relations between the police and the motoring public would be placed on a more satisfactory footing if the traffic laws were to be modernised and brought into harmony with public opinion, and if the police were then to adopt uniform practices in enforcing them.(29) We think that there is force in this contention.

386. No law can be considered satisfactory unless it commands wide popular support and its purpose is understood and accepted. We do not think that the present provisions of the law with regard to the parking of motor vehicles satisfy either test.

387. The evidence before us showed that much confusion and difficulty arise from the present state of the law relating to day-time parking. Under the common law the public enjoy the right to use the highway for passage, and any reasonable stopping on the highway is lawful. However, the Highway Act, 1835, made it an offence to leave any carriage or cart on the highway so as to obstruct the passage thereof. Subsequently, the Motor Vehicles (Construction and Use) Regulations made it an offence to cause or permit a motor vehicle to stand on a road so as to cause any unnecessary obstruction thereof. These provisions have been interpreted by the courts from time to time, but they cause much confusion and doubt in the minds of motorists and leave much discretion to the police.(30) This is not a satisfactory situation. We accordingly recommend that the law be reviewed, simplified and modernised so that any driver will know where he may and may not park his vehicle without committing an offence.

388. The law relating to the parking of vehicles after dark without lights also gives rise to confusion and difficulty. In general, vehicles may not be parked after dark on the highway without lights, but the law allows discretion to be exercised by chief constables to permit designated streets to be used for this purpose. In London it is permissible for unlit vehicles to be parked in lighted streets so long as the streets are not used by public transport. There is great variety in the practice outside London. Some chief constables have used their discretion widely to allow drivers to park their vehicles without lights, and others have adopted a more stringent policy. This results in a great deal of misunderstanding and justifiable resentment, often directed against the police rather than against the law which it is their duty to enforce. We recommend that the law in this respect also be reviewed, and so far as possible brought into line with public opinion. We find it difficult to believe that regulations cannot be made which will be uniform and intelligible to the motoring public.

389. Sensible modern laws, consonant with public opinion and generally understood and accepted, are the indispensable foundation on which the police themselves can enforce the road traffic laws uniformly. But they will still leave a certain amount of discretion to the police. This is partly

(29) Evidence in this sense was given by the Motoring Associations (Minutes of Evidence 17, pages 998–999); the Magistrates' Association (14, Q. 2641); the Police Federation (18, page 1034); the Bow Group (24, page 1304); and the Justices' Clerks' Society (Appendix III to Minutes of Evidence, pages 9–10).

(30) Memorandum by Dr. R. M. Jackson (Minutes of Evidence 14, page 827).

because of the magnitude of the problem. Enforcement of the law against speeding, for example, cannot but be sporadic. But there are some ways in which the police can exercise their discretion more wisely and more uniformly than they do at present, and thus secure better support and understanding from the motoring public who, because of their mobility between one district and another, are bound to be more sensitive to an uneven pattern of law enforcement than other sections of the public.

390. The motoring associations gave us several examples of the way in which inconsistent policies adopted by different forces can damage relations between the police and motorists and lead to resentment. Thus some forces are much more ready than others to issue warnings to motorists for minor offences, in preference to instituting proceedings. There may well be occasions when severity is both appropriate to the offence and necessary in the public interest. But we think that this is another field in which there is scope for more uniformity of practice between forces than appears to exist at present. Lack of uniformity is also seen in the practice adopted in some police forces of preferring alternative charges of dangerous and careless driving where it is reasonably clear that a bench is only likely to convict on the lesser charge.(31) There is no justification for causing anxiety by such a procedure, and we recommend that this practice be brought to an end. Yet another example of lack of uniformity of practice concerns the acceptance of pleas of guilty by post. We understand that in some areas the police regard prosecutions of, for example, careless driving as being suitable for the procedure under the Magistrates' Courts Act, 1957, whereby a defendant may plead guilty by post.(32) Elsewhere such cases are treated much more seriously.

391. It is in our view essential to the maintenance of good relations between the police and the motoring public that the police should adopt uniform policies in every aspect of the enforcement of the traffic laws. It is equally necessary that these policies should be widely regarded as fair and reasonable. We accordingly recommend that chief officers of police, in consultation with other authorities concerned, formulate uniform policies in regard to the matters to which we have referred. We also recommend that these policies be given adequate publicity, so that the traffic laws can be seen to be consistently enforced throughout the country.

392. The view was put to us by the Pedestrians' Association for Road Safety that the police do not enforce the road traffic laws with sufficient vigour.(33) In the sense that the shocking number of casualties on the roads would be reduced if more policemen than at present were available to control traffic, and so to act as a check on careless and reckless driving, this statement is doubtless true. We believe that every responsible citizen must share the Association's concern about road safety, and in our interim report we noted the view of police witnesses that, with more traffic patrols, the number of road accidents could be substantially reduced.(34) However, in the promotion of responsible driving, firm enforcement of the law need not rule out efforts to improve road courtesy by persuasion and friendly advice.

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(31) Minutes of Evidence 14, page 823; 17, page 1000; Appendix III to Minutes of Evidence, page 10.
(32) Appendix III to Minutes of Evidence, page 10.
(33) Minutes of Evidence 14, page 828.
(34) Cmnd. 1222, paragraph 57.

393. We have considered, in the light of these views, suggestions put to us by the Inns of Court Conservative and Unionist Society that the police responsible for traffic control and traffic safety should form a separate corps of the police ;([35]) and a proposal by the Law Society that traffic offences should be heard separately before magistrates' courts, and that special care should be taken to ensure that greater consideration is shown to motorists attending such courts.([36]) We think that both these suggestions are misconceived. There is not in our view any sufficient advantage in creating a separate corps of traffic police to offset the disadvantage of divided control and responsibility.([37]) And any formal distinction between motoring offences and other offences against the criminal law seems to us to be open to serious objection.

The police and the press

394. We heard a substantial amount of evidence, mostly from journalists and from police witnesses, about relations between the police and the press. These relations are important for three reasons: because the press (and for this purpose we include the broadcasting organisations) is an important intermediary between the police and the public; because the press has a useful part to play in helping the police ; and because the police have a useful part to play in giving information to the press.

395. The press and the broadcasting organisations obviously have a great influence in forming the popular image of the police. Before the war, when police forces were up to strength, with more men on the beat than there are today and fewer in motor cars and in specialised branches, most people probably gained first-hand impressions of the police from personal observation. Nowadays knowledge of the police tends to be secondhand knowledge, frequently derived from television. This places a great responsibility on the press, and particularly on the broadcasting organisations, to ensure that police news and features are fair and accurate.

396. We heard no criticism of the broadcasting organisations in this respect, and some programmes, notably "Dixon of Dock Green", earned much praise. But a number of witnesses,([38]) including others than the police themselves, thought that the press was partly responsible, owing to inaccurate or distorted reporting of police news, for any deterioration that might have occurred in relations between the police and the public. This was strongly denied by witnesses from the National Union of Journalists, however, who assured us that they regarded it as their duty to do all they could to put the police in the best possible light.([39])

397. Our general impression is that the press is aware of its responsibility towards the police, and discharges it properly. We have found no general lack of sympathy for the police, and we were gratified to observe that virtually the whole of the national press applauded our

([35]) Minutes of Evidence 11–12, page 694.
([36]) Minutes of Evidence 19, page 1079.
([37]) The Chief Constables took the view that it was impossible to dissociate the traffic aspect of their duties from the crime aspect, because nowadays vehicles are frequently used for the commission of crime. They instanced the fact that in one year 58 arrests for crime had been made on the M.1 motorway by officers engaged on traffic patrol duties.
([38]) Minutes of Evidence 14, page 790; 15, page 863; 18, page 1034; 19, pages 1072 and 1111; 24, page 1315; 27, pages 1432 and 1470.
([39]) Minutes of Evidence 21, Q. 4263.

proposals for a substantial increase in police pay. The publication of our interim report occasioned many generous tributes to the police. Assaults on policemen are reported in a manner sympathetic to the police, and the not infrequent instances of bravery are prominently reported.

398. Our attention was directed to some alleged lapses from what we regard as a generally satisfactory standard. Representatives of the police supplied us with files of press cuttings which tended to show policemen in an unfavourable light.

399. The defaulting policeman, like the defaulting parson or schoolteacher, is "news"; and stories of the prosecution and conviction of policemen are frequently given prominence in the press. We do not think that the reputation of the police service stands or falls by the occasional sensational reporting of allegations against a particular policeman. Sensible people realise that there are black sheep in most families. Moreover, news that a policeman has been prosecuted before a criminal court ought to be regarded as evidence of a chief constable's determination to deal properly with his men, rather than as an indication of widespread criminal conduct among policemen. The press has a duty to report the news accurately, and if it is sometimes unfavourable to the police, the press cannot be blamed. However, we are satisfied that occasions do occur when the press does disservice to the police because news is reported inaccurately or distorted, particularly in headlines.

400. An instance of such distortion came to our attention in the course of our inquiry. In their memorandum of evidence the Law Society paid generous tribute to the integrity and ability of the police, but as we mentioned in paragraph 369 they also alleged that there were "isolated cases" in which the conduct of police officers fell short of the usual high standard.([40]) While most of the press gave a reasonably balanced summary of this evidence, three popular newspapers printed headlines which singled out in sensational terms the criticism of police behaviour, but gave no hint of the Law Society's tribute;([41]) and at least one of the summaries which followed appeared to us to indicate a similar bias. We referred this matter, as a complaint against the press, to the General Council of the Press. In its report the Council expressed dissatisfaction with these headlines, and in one case adjudged the report of the Law Society's evidence to be biased.

401. At the same time we referred three other cases of alleged misrepresentation of police news to the Press Council. In one, the chief constable concerned subsequently discovered a press report which removed the ground of complaint. In a second case the chief constable felt unable to co-operate with the Council in its inquiries into the complaint. And in the third case the Council could not reach any conclusion because of conflicting evidence.

402. We selected these four cases for reference to the Press Council from among a substantial number of instances brought to our attention by police witnesses, in all of which it was suggested that the press had acted irresponsibly in reporting police activities. We do not think, on the

([40]) Minutes of Evidence 19, page 1072.
([41]) An example of such a headline was:—" Solicitors say Police Fake Evidence ".

evidence, that this charge has been substantiated. As we noted earlier in this chapter, the isolation of the police from the rest of the community inclines them to be over-sensitive to criticism. Moreover, some forces at present lack effective means of giving news to the press. We deal with this below. It is most important, on the other hand, that the press should maintain the highest standards in reporting police news. The public interest requires that people should have confidence in the police, and any unfair or inaccurate reporting which tends to undermine that confidence can do nothing but harm.

403. In helping the press to publish fair and accurate news about their activities the police also help themselves. They make their task easier if people understand what they do and why they do it. This is the foundation of a good relationship between the police and the public. In this respect the interests of the police and those of the press coincide.

404. The National Union of Journalists told us that the local arrangements made in police forces for supplying news to the press vary considerably. In some forces the arrangements are, from their point of view, admirable but in others they are lamentably inadequate. To secure uniformity of practice they made the following suggestions which they thought would serve to improve relations between the police and the public.

> "1. Recognised times for local newspapermen to make routine calls at police stations where an experienced officer is available who can provide explanations and additional details, if required, of news items made available.
>
> 2. The appointment by chief constables of information officers—with suitable deputies for occasions when these officers are not available—who can provide details of important newsworthy incidents outside the times of routine calls.
>
> 3. Efforts to be made to speed up the communication of information to the press, particularly from outside districts, to the point from which information is communicated.
>
> 4. Chief constables to be recommended to give authority to experienced police officers in charge of investigations into major crimes or dealing with incidents of importance or interest to hold conferences with press representatives on the spot.
>
> 5. Chief constables to be recommended to hold when necessary 'off the record' conferences with the press at which the background to matters of public interest may be discussed on the understanding that confidences shall be respected ".([42])

We think that these are sensible suggestions and we commend them to the attention of all chief officers of police as a basis for developing good working relations with the press.

405. But it is not good enough for the police to understand the requirements of the press. It is just as important that the press should understand that the police work under difficulties which may often prevent them from being as communicative as the press would like. Although the interests of both often run in the same direction, there are occasions when they necessarily conflict.

([42]) Minutes of Evidence 21, page 1190.

406. In the course of their work the police acquire much information which is of great interest to the press for its news value. For various reasons it cannot all be made available. Police investigations and subsequent judicial proceedings may be prejudiced if the press is told too much.

407. A case which attracted public attention shortly before we were appointed concerned the conduct of police officers in arresting a man who subsequently faced a charge of murder. Allegations were made in Parliament and in the press that the police had used unnecessary violence in making the arrest; but the police were unable either to confirm or to deny these allegations, since the circumstances of the man's arrest later became an issue in his trial.[43] Thus accusations were publicly made against the good name of the police which could not be rebutted until very much later. The police felt that they had been unfairly treated on this occasion, and we agree with them. A better understanding of their difficulties, and proper forbearance not only by the press but by others in responsible positions, would help everyone.

408. Journalists should also remember that policemen are told many things in confidence by people who are under great emotional stress at times of trying or even critical personal trouble. It is most important that everybody should be able to rely on the confidence and integrity of the police, and to look upon them as friends. It follows that many things that come to their ears should remain confidential—not, in this case, because publication might prejudice police inquiries or judicial proceedings, but simply because it would be hurtful or unkind.

409. The press can help the police (and incidentally themselves) by limiting the number of reporters and photographers who cover a particular incident. It is not only irritating to chief constables and other senior officers when correspondents from the national press, the Press Association, the local news agency, the B.B.C. and the I.T.V. come at different times; it is almost inevitable that some will have to be told to go away if they are not to interfere with important work on which the police are engaged. Similarly, photographers who jostle one another and the police in an effort to get the most dramatic picture of an incident for their own organisation can hardly complain if some of their number fall foul of the police and are kept from the scene altogether. If the press—whether reporters or photographers—would limit the number of representatives much better co-operation could be achieved.

410. There is no doubt that, despite occasional friction, chief constables derive great help from the press. They themselves told us that the advantages to them of the press greatly outweighed the disadvantages. The press readily responds to appeals in relation to road safety and crime prevention. It co-operates with the police in efforts to get witnesses to come forward. The police also told us that the television services can be particularly helpful, for example in showing to seven or eight million people in one evening a composite picture of a wanted person.

411. Early in our report we observed that, during the period preceding our appointment, the press fostered the impression that relations between the police and the public were bad. An opinion of this kind, repeated often

(43) *Rex* v. *Podola* [1960] 1 Q.B. 325.

enough, begins to look like objective truth. Certainly many of the witnesses who appeared before us accepted it as true although, as we have emphasised, the best available evidence shows it to have been false. The lesson is a simple one. The press can much better serve the interests of relations between the police and the public by assuming that these relations are good than by assuming, without supporting evidence, that they are bad.

Arrangements for promoting good public relations

412. Several witnesses asked us to recommend that formal machinery should be set up to guide relations between the police and the public. The Institute of Public Relations suggested the establishment of local public relations advisory committees, and they and the Police Federation thought that each force should have its own public relations officer or adviser. The Federation suggested that a suitably qualified police officer would be suitable for such a post.(44) Some representatives of the Scottish Counties of Cities Association thought that an appointment of this kind was required in the larger forces.(45)

413. We have sympathy with the object of these proposals, but we do not think the case for providing any formal or uniform arrangements of this kind has been made out. The important thing is that police authorities and chief constables should constantly bear in mind the need for cultivating good relations between the police and the public, and that they should make whatever local provision seems to them best suited to the needs of their own particular area.

(44) Minutes of Evidence 18, page 1035 and Q. 3676; 24, page 1283.
(45) Minutes of Evidence 26, pages 1403 and 1410.

CHAPTER IX

COMPLAINTS AGAINST THE POLICE

414. We assume that the inclusion in our terms of reference of "the means of ensuring that complaints by the public against the police are effectively dealt with" was due partly to doubt about the state of relations between the police and the public, and partly to the incidents, referred to at the beginning of our report, which preceded our appointment. We have already refuted any suggestion that relations between the police and the public are bad. As regards any specific allegations, our concern in this chapter is with the manner in which complaints are handled and not with the way in which the police behaved on any particular occasion.

Evidence relating to complaints

415. An incident occurred during the course of our inquiry which gave rise to a substantial number of complaints against the conduct of the Metropolitan Police. This was an occasion in September, 1961, when a large number of persons broke the law by assembling and sitting down in Trafalgar Square as a demonstration against the Government's defence policies. Great publicity was given by the press and by some broadcasting organisations to a series of complaints that policemen had handled demonstrators roughly. We have studied carefully the manner in which these complaints were investigated. Statements taken from the complainants, the police and witnesses were made available to us, together with reports of the officers who investigated the complaints, and a report on the whole matter by the Commissioner of Police of the Metropolis, whom we subsequently interviewed in order to ascertain in detail the methods he employed in conducting this investigation. We are completely satisfied that the most careful inquiries were made on this occasion, and we have no hesitation whatever in saying that the existing procedure was soundly and properly followed.

416. In addition to studying these and other incidents involving specific allegations against the police, we have questioned police witnesses closely on the arrangements made for dealing with complaints of all kinds. During our visits to police forces we have made a point of examining the records of complaints and discussing them with chief constables and other senior officers. Moreover, to obtain evidence about the volume and nature of complaints and about the practical working of the system we asked all chief officers to send us details of all complaints made to them within the twelve months ending in July, 1960, together with a note of the finding in each case and the action subsequently taken to inform the complainant.

The volume of complaints

417. In the twelve months mentioned the total number of complaints recorded in all the forces of England, Wales and Scotland was just over 4,000.[1] This means that a complaint was lodged against one policeman

[1] Of this total, more than half were made by letter, and about a quarter by personal call at a police station. The remainder were made by telephone call, verbally to a policeman in the street, or in a few cases in a court.

in twenty during the year. To put it another way, if it could be assumed that the rate remains constant over the years a policeman might be complained of, on average, once or twice during the whole of his police career. This is a very low incidence of complaint for members of a service constantly in touch with the public and particularly exposed to criticism.

418. We have tried to form an opinion on two further general questions. The first is whether the volume of complaints has increased over the years. We were unable to obtain useful statistical evidence on this point for the country as a whole. However, the Metropolitan Police have maintained records of complaints over a long period, and these records show that there are actually fewer complaints in the Metropolis now than there were twenty-five years ago.(2) At that time the strength of the Metropolitan Police was higher than it is today, and the records suggest that the variation in the number of complaints over the intervening years reflects fluctuations in the number of policemen rather than any changes in the relationship between the police and the public. So far as it goes, then, this evidence does not point to any trend that gives cause for concern.

419. The second question is whether there is any significant difference between forces in the volume of complaints made against the police. The returns that we obtained from provincial chief constables showed some variations to which we do not attach much significance. But between forces outside London taken as a whole and the Metropolitan Police we found a striking difference: the incidence of *recorded* complaints per police officer is nearly twice as high in the Metropolis as it is elsewhere.(3) We do not infer from this that Metropolitan constables are less disciplined or more prone to give offence than others. The explanation probably lies in the fact that the arrangements for recording complaints are on the whole less strict in other forces than in the Metropolis, where very few complaints, even of a trivial or vexatious nature, escape the record. In our opinion a strict standard of recording is essential, and we return later to this point.

The nature of complaints

420. In 68 per cent. of the complaints the police were alleged to have exceeded their duty in some way. The total of 68 per cent. was made up of complaints of incivility (28 per cent.), excessive use of police powers (25 per cent.) and actual physical violence or assault (15 per cent.). In most of the remaining 32 per cent. of complaints the police were said to have fallen short of their duty, for instance by failing to give help to motorists in trouble or by delay in arriving at the scene of a crime or accident. A small proportion of complaints—about 5 per cent.—concerned alleged dishonesty, corruption or perjury.

421. One-third of all complaints against the police arose out of their traffic duties.

The investigation and disposal of complaints

422. The statistics of the methods by which complaints are investigated bring out some points of interest. Five per cent. of complaints were made the subject of a formal disciplinary charge against a particular police

(2) Minutes of Evidence 20, pages 1158 and 1171.

(3) Even so, the number of recorded complaints against Metropolitan policemen in 1959 amounted to less than one complaint to every 20,000 hours of duty performed (Minutes of Evidence 20, page 1161).

officer. The remainder were judged either not to be serious enough, or not to be sufficiently supported by evidence, to warrant the bringing of a charge or the institution of proceedings. Some were clearly frivolous; others were disposed of by a straightforward apology or explanation by the constable concerned, or an acknowledgment by the member of the public that his complaint had been hasty or exaggerated, and that he did not wish to press it. In other cases statements were taken from the complainer and the constable, from which it became clear either that no disciplinary offence had been committed or that the evidence to support a charge was lacking.

423. The findings following investigations by chief constables show that the proportion of complaints thought to have some foundation was about 25 per cent., although these were by no means all fully substantiated. Punishment would not therefore have been appropriate in all these cases. A police officer can be formally punished only after he has been found guilty of a disciplinary offence. But in a disciplined service it is often possible to administer effective rebuke outside the field of the discipline code. Indeed it is quite practicable, and may often be desirable, to take some action even when nothing can be proved against the officer, but there remains a suspicion in the chief constable's mind that the complaint had some basis and that the officer had behaved unwisely, even if not culpably. It is in this light that the phrase used by chief constables to describe the action taken in a very large number of complaints—that the officer received "informal advice" from a superior—is to be interpreted.

424. The statistics are reassuring, for they indicate that the volume of complaints against the police is small. They also suggest, and a closer examination of the returns only serves to confirm, that the great majority of complaints are concerned with trivial incidents. Indeed many of the records testify to the patience of the police under great provocation from unreasonable members of the public. There are, as is to be expected, a number of complaints that are serious and disclose inexcusable conduct on the part of a few policemen. But the proportion of these is small.

425. Statistics are, however, of little help in establishing whether or not complaints are properly dealt with, and it is of interest to examine the extent to which the present system of dealing with complaints gives satisfaction to those who complain.

Measure of satisfaction with the present procedure

426. On the evidence of the returns from chief constables it appears that the police achieve a good measure of success in convincing complainants that their grievances have been fairly dealt with. They are in general punctilious about notifying the results of their investigations to aggrieved persons, of whom about half express satisfaction with the handling of the matter. Of the other half some will have received letters and may well be satisfied also, although they may not have taken the trouble to say so. Only a very few say positively that they are dissatisfied. There is ground for thinking that a formal disciplinary hearing gives greater satisfaction to a complainant, even when the decision goes against him, than a purely private investigation.

427. In assessing the significance of these returns we have borne in mind that it is bound to be difficult for the police themselves to judge objectively

whether they have succeeded in satisfying aggrieved members of the public. Some independent confirmation of their findings, however, is supplied in the report of the Social Survey.(4) This established that 1·1 per cent. of those interviewed had at some time registered a complaint against the police and that 0·6 per cent.—slightly more than half—were content with the treatment it received. On the other hand 0·5 per cent.—almost half of those who had complained—said that they were dissatisfied: but many of these may well have been displeased with the outcome rather than critical of the procedure.

Comment on the effectiveness of the present arrangements for dealing with complaints

428. The foregoing evidence gives us no reason to doubt that chief constables and other senior officers are, in general, scrupulously fair and thorough in the way in which they investigate complaints, and our own observation confirms this impression. The investigation sometimes tends to be at the cost of some distress and embarrassment to innocent police officers. Pride in their force and concern for discipline, as well as for the maintenance of good relations with the public, work together to encourage senior officers, and in particular chief constables, to exercise the greatest care in the investigation of complaints, and even on occasion to weight the scales against the constable.

429. Unfortunately, however, it is not possible to leave the matter there because a system in which the investigation of complaints is the concern of the police alone may not give the appearance of justice being done. In carrying out their duties the police may have to invade the rights and liberties of others, and sometimes they may be tempted to do so without proper cause. Occasionally, too, they exercise authority officiously or oppressively. A chief constable might well be inclined either to partiality or to over-severity in trying one of his own men; in any case it cannot be easy for him, with a natural sympathy towards his own officers, to adopt the attiude of mind which is necessary if justice is to be done—and, almost as important, if justice is to be seen to be done. It was with this in mind, rather than on the ground of specific allegations of miscarriages of justice, that some witnesses contended that the investigation of complaints against the police should be handed over to a person or body outside the force; or alternatively, that a complainant should have a right of appeal against the decision of a chief constable, just as a police officer has a limited right of appeal to the Secretary of State against a punishment imposed by his chief officer.

430. This is a persuasive line of argument, but the matter is much less simple and straightforward than it seems, because the appearance of greater justice to the public is liable to be bought at the expense of the police. There are two reasons for this.

431. In the first place, the personal responsibility of the constable and the need for him to act on his own initiative, together with the fact that the police are constantly exposed by the nature of their duties to irresponsible and malicious complaints by criminals and ill-disposed or mentally deranged persons, combine to make them an easy target. Consequently it is

(4) Appendix IV to Minutes of Evidence, page 15.

essential not only that they should be brought to account if they do wrong, but also that they should be given proper protection so long as they do right. This protection can best be given by their own superiors, who understand the hazards of police duties and are in the most favourable position to sift the obviously false allegations from those that appear credible. The morale of the police, and hence their efficiency, would be seriously undermined if they were to lose confidence in the ability of their superior officers to protect them in this way, and the public would very soon suffer.

432. The second reason is related to the first. The police are disciplined body, and proper leadership requires that the administration of discipline should be in the hands of the chief constable. Any whittling down of this responsibility would weaken the chief constable's command of the force and this, again, would lead to a loss of morale and confidence. There is no strict analogy between a disciplined body like the police and the medical or legal professions, where it is proper that professional discipline should be administered by a specially appointed body rather than by a single individual. Moreover, a divided control over discipline could not easily avoid the danger of putting an accused constable in peril again after he had been tried and acquitted by his chief constable, and thus of infringing a basic principle of justice.

433. The problem of ensuring that complaints against the police are effectively dealt with is thus intrinsically difficult. Essentially it is to devise arrangements which are acceptable both to the police and to the public as fair and just, not favouring either at the expense of the other, and not weakening the morale of the police and their resolve to fight crime.

The present procedure for investigating complaints

434. The way in which a complaint is handled depends largely on its nature. Serious allegations may give rise to criminal or civil proceedings. Alternatively, if a complainant cannot pursue a legal remedy or does not choose to do so, the matter is dealt with internally by the chief constable and his senior officers. If the complaint suggests that a disciplinary offence may have been committed it is dealt with under the Police (Discipline) Regulations.

435. We deal first with complaints which may give rise to criminal or civil proceedings before the courts, and secondly with those which are handled internally as a matter of discipline.

Complaints which may give rise to criminal proceedings

436. The prosecution of most criminal offences in England and Wales is a duty of the police. One consequence of this is that where a complaint by a member of the public discloses *prima facie* evidence that a police officer may have committed a criminal offence the chief constable has the responsibility of deciding whether to launch a prosecution against him. He can call on the advice and assistance of the Director of Public Prosecutions, but the decision is his own.(5) The practice in the Metropolis is different; where there is a *prima facie* case for thinking that a Metropolitan police officer may have committed a criminal offence the papers are referred to the

(5) Unless the offence alleged belongs to one of the categories which must under statute be referred to the Director of Public Prosecutions.

Director, who gives directions as to proceedings and undertakes any prosecution himself.

437. In Scotland, because of the independent prosecution system, the procedure is different again. Any complaint alleging an offence is referred to the local procurator fiscal, who himself takes charge of the investigation and interviews witnesses. If he finds any substance in the matter, he refers it to the Crown Office,(6) where a final decision is taken as to proceedings. Thus the responsibility for deciding whether a prosecution should be brought against a policeman as a result of a complaint by a member of the public is never, in Scotland, in the hands of the chief constable.

438. The Scottish Police Federation complained that this procedure resulted in a temporary increase in prosecutions against policemen in 1959, following the Waters case, but apart from this we received no evidence favouring any alteration in either the principles or the practical working of the Scottish arrangements.

439. We think, however, that the Metropolitan practice, in which the Director of Public Prosecutions decides whether to proceed against a constable, and conducts the case, is much to be preferred to the common practice in other forces in England and Wales. We do not doubt the competence of chief constables to decide whether to prosecute their own men, but we think that so long as this decision remains in their hands a member of the public will have a possible ground of resentment which can and ought to be removed. We accordingly recommend that, wherever an allegation discloses that a criminal offence may have been committed by a police officer against a member of the public, the decision whether or not to institute criminal proceedings against the officer be invariably taken by the Director of Public Prosecutions in England and Wales, in the same way as it is taken by the Crown Office in Scotland.

Complaints which give right of action in civil proceedings

440. Our recommendation, in Chapter VI (paragraph 201), that a police authority be made liable for tortious acts committed by a police officer in the course of his duty, or in the intended execution of it, is designed to facilitate the bringing of civil actions against the police where they are justified. It is wrong that such actions should be frustrated by the uncertainty of the present position and the inability of a litigant to identify the constable complained of.

Complaints which admit of no legal remedy or where a legal remedy is not sought

441. It is possible that some people with complaints against the police hesitate to bring a legal action even though they may have adequate grounds for doing so. The private citizen may well think twice before challenging "authority" in a court of law. Though he may benefit by the provision of legal aid, there must be personal anxiety, and attendant uncertainties as to the incidence of costs and the amount of damages. In any case, a substantial number of complaints amount to allegations which would, at most, constitute no more than a relatively minor legal wrong

(6) The Crown Office is the central department through which the Lord Advocate exercises control over criminal prosecutions.

without material loss, which would hardly justify the institution of proceedings.

442. Consequently there is a class of complaints of an actionable kind, as well as a far larger class of minor complaints of incivility or oppressive conduct, unfairness, and the like, which at present fall to be investigated entirely within the police force concerned. The procedure for dealing with all these is based on the Police (Discipline) Regulations. This procedure follows three main stages, at any one of which proceedings may be terminated.

443. These stages are as follows(7):—

Stage One

On a complaint being received, the chief constable decides whether or not to follow the procedure prescribed by the discipline regulations, which in turn may lead to the framing of a disciplinary charge. If he decides against this course, his decision will normally be based on one of three grounds:

(*a*) that the matter appears to involve a criminal offence and the officer complained of should be prosecuted, or that the complainant proposes to seek a remedy in the civil courts. We have already dealt with these possibilities in paragraphs 436-440;

(*b*) that the complaint is unjustified;

(*c*) that the complaint, although justified, is trivial or frivolous, in which case the chief constable would normally write to the complainant, either telling him that he has found little substance in the complaint or else tendering an apology appropriate to the circumstances.

Stage Two

If the chief constable decides that the matter is substantial (but not involving civil or criminal proceedings) an investigating officer, who must be of or above the rank of superintendent, is appointed to take statements from the complainant, the man complained of, and any witnesses. The investigating officer reports to the chief constable or his deputy and, on the basis of this report, the decision is taken whether or not to lay a formal disciplinary charge. Again, if it is decided not to proceed, the complainant is normally informed of the decision.

Stage Three

If a charge is preferred against a police officer there is a formal hearing of the case before the chief constable. Witnesses, including the complainant, are examined and a verbatim record is taken of the proceedings. Finally the chief constable either dismisses the case or awards punishment. The complainant is normally informed if the decision is made in his absence. Except for minor punishments the police officer then has a right of appeal to the Secretary of State.

(7) The description in this and the following paragraphs relates to the procedure in England and Wales only. We discuss the Scottish arrangements in paragraph 455.

444. Thus the complainant has at present no means of taking his complaint further in the following situations :—

(i) if the chief constable should decide at Stage One that the complaint is trivial, frivolous or unjustified ;

(ii) if a decision should be taken, after investigation at Stage Two, that no charge should be preferred against the constable complained of ;

(iii) if the chief constable should decide at Stage Three to dismiss the case.

445. The arrangements for dealing with complaints in the Metropolitan force are slightly different.[8] The orders of the force emphasise the importance of the investigation of complaints, and they point out that the authority exercised by the police and their good name depend largely on the confidence felt by the public that a complaint against a police officer will always receive a full and unprejudiced hearing, and that if it is substantiated redress will follow. All complaints, however trivial, have to be recorded, and it is the practice to find out at the outset whether a complainant is willing to leave the matter in the hands of the Commissioner, or whether he intends to institute civil or criminal proceedings. If he elects to leave the matter to be dealt with by the police the next step depends on whether it is apparent that a particular constable has committed a breach of discipline. If it is, the procedure follows the course described in the relevant parts of paragraph 443. If it is not, the complainant and the police officer complained of are seen as soon as possible and their statements are taken. The matter is then considered by senior officers and a disciplinary charge may eventually be laid against the constable or he may be given advice. Alternatively, he may be exonerated, or there may be a conflict of evidence. We understand that the aggrieved citizen is always told the upshot of the inquiry, and that letters of apology are sent whenever appropriate.

446. In our opinion these arrangements, in the Metropolitan force and elsewhere, provide for complaints to be properly handled by the police and, as we have said, we are generally satisfied that chief constables operate them fairly. We think, however, that there is scope for improving the procedure so as to make its fairness more conspicuously apparent to the public. Our recommendations to this end are contained in the following paragraphs.

Improvements in the present procedure for dealing with complaints[9]

447. Our impression is that the Police (Discipline) Regulations, and the procedure they embody, are soundly conceived ; but it is evident that the regulations have been drafted primarily from the point of view of police discipline, and only incidentally as a means of dealing with complaints against the police by members of the public. It is from the latter point of view that we have examined them, and we make the general criticism

(8) Minutes of Evidence 20, pages 1161–2.

(9) The proposals in this section relate to police forces other than the Metropolitan force, since special considerations apply to the latter on account of its size. We should however expect that any changes made as a result of our recommendations would be applied to the Metropolitan force as far as appropriate.

that not enough thought has been given to the best arrangements for reassuring the public that complaints are properly handled. Some of the proposals that follow involve changes in the police discipline procedures designed to this end. We have not sought evidence on the subject of police discipline generally, but only to the extent that it is bound up with the investigation of complaints.

448. There is, however, one point not strictly related to the investigation of complaints against the police with which it is convenient to deal here. There was a considerable body of evidence in favour of widening the range of punishments against which a police officer is at present entitled to appeal to the Secretary of State. Under the Police (Appeals) Acts, 1927 and 1943, a police officer who is punished by dismissal, requirement to resign, reduction in rank, or reduction in rate of pay may appeal against his punishment to the Secretary of State, but no appeal is permissible in respect of the lesser punishments of a fine, reprimand or caution. We see no good grounds for this distinction. Any punishment, however light, involves a blot on a constable's record, and if he feels that he is the victim of injustice he should have an opportunity to appeal to higher authority. We were told by the Scottish Home Department that appeals tend to be few in relation to the less serious punishments which at present carry a right of appeal, and we have no reason to think that an extension of this right to include all punishments would create any difficulty. We accordingly recommend, as did the Oaksey Committee,([10]) that a right of appeal be given against all punishments.

449. The improvements we now suggest may conveniently be grouped under four heads: the establishment of a proper and uniform procedure for recording complaints; alterations in the discipline procedure by which complaints are investigated; changes in the procedure at a formal disciplinary hearing before a chief constable; and improvements in the arrangements for notifying the results of complaints.

Procedure for recording complaints

450. Regulation 20 of the Police (Discipline) Regulations provides that a divisional complaints book([11]) must be kept in the headquarters office of each division of a police force. Particulars have to be entered in the book of any reports or allegations which disclose that a police officer may have committed an offence. There is at present no requirement that all complaints by members of the public against the police should be recorded. They may or may not be entered in the book according to the likelihood that a disciplinary offence may have been committed. We think that this defect should be remedied. We accordingly recommend that the regulations provide for every complaint by a member of the public against a police officer, however trivial and from whatever source, to be recorded in a "complaints book" to be held at divisional headquarters. An entry should be made whether or not it appears likely that a disciplinary offence may have been committed, and the result of the complaint should also be recorded. We understand that it is the present practice of inspectors of

([10]) Cmd. 7831, paragraph 248.
([11]) In the corresponding regulation (16) of the Scottish discipline regulations the reference is to a divisional *discipline* book.

constabulary to examine disciplinary matters, but no duty is at present laid upon them to examine the way in which complaints from the public are handled. We recommend that a duty be placed on the inspectors to examine complaints books, and the manner in which complaints are investigated, so as to satisfy themselves that they have been properly dealt with. We further recommend that the books be open for inspection by the police authority.

451. It is not to be expected that most people who wish to complain about the conduct of a police officer will be familiar with the way in which their complaint is dealt with. Ignorance is all too likely to beget suspicion, and we recommend that a standard explanatory leaflet be brought into use throughout the police service containing brief notes on the procedure adopted for dealing with complaints. Such a leaflet should be given to every complainant as a matter of course. The leaflet should also draw the complainant's attention to the possibility that he may have grounds for a civil action or that there may be grounds for criminal proceedings.

Changes in the disciplinary procedures

452. We have four recommendations under this head. The first concerns the final disposal of all complaints. We recommend that the decision as to the disposal of every complaint against the police, whether it is judged to be unjustified, trivial or frivolous, whether it has proceeded to the stage of a formal investigation but without a charge being made, or whether it has given rise to a disciplinary hearing, be taken by the chief constable or, in his absence, by the deputy chief constable.([12]) Thus failure to perform these important duties effectively and impartially will raise the question of the fitness of the chief constable for office.

453. Secondly, we regard it as important that any formal investigation under the discipline regulations be placed in the hands of an officer remote from the alleged offender. The abolition of small police forces will facilitate this. We recommend that wherever practicable an investigating officer be appointed from a division of the force other than that in which the alleged offender is serving.([13]).

454. Thirdly, it is in our opinion wrong that the duty of deciding whether to put a man on a disciplinary charge should be in the hands of the chief constable, as it is in England and Wales in terms of Regulation 4 (1) of the Discipline Regulations. Regulation 5 enables a chief constable to delegate this duty to the deputy chief constable. We understand that the reason why the duty is not laid directly on the deputy chief constable is that it is considered that there may conceivably be serious cases of discipline affecting the general reputation of the police force of which the chief constable would be bound to take cognizance from the outset and that in such cases he, and not the deputy, should prefer the charge. But in our view a clear distinction can be drawn between general responsibility for the discipline and reputation of a police force—a responsibility which must at all times

([12]) The recommendation which we make in paragraphs 454 and 455, that the deputy chief constable should decide whether or not to place an alleged offender on a disciplinary charge, requires that a decision in this type of case cannot be taken by the chief constable himself. But a decision *not* to bring a disciplinary charge should be brought to the notice of the chief constable.

([13]) This is already the practice in the Metropolitan force.

lie on the chief constable—and the narrower responsibility of deciding whether or not a man should be charged in relation to a specific offence, which can be discharged by any officer of sufficient seniority and not necessarily by the chief constable. The objection to the chief constable's formally preferring a charge is that the duty of taking the subsequent hearing necessarily falls on him, and he is put in the position of being both prosecutor and judge. We therefore recommend that the officer vested with authority to subject a police officer to a disciplinary charge be the deputy chief constable or, in his absence, the officer authorised to perform his duties.

455. The present position under the Scottish Regulations is different, as Regulation 3 (1) provides that it is the investigating officer who shall decide whether to charge a man with an offence. In our view this is scarcely less objectionable than the English provision. The decision whether or not to prefer a charge should be in the hands of an officer capable of pursuing a consistent policy in this respect, and investigating officers, who are appointed *ad hoc* in relation to each alleged offence, cannot be expected to achieve consistency. We therefore recommend that in Scotland, as in England and Wales, this responsibility be placed on the deputy chief constable.

456. Our next recommendation is intended to adjust the balance between a complainant and a police officer who is alleged to have committed an offence against discipline. Regulation 4 of the Police (Discipline) Regulations provides, as regards England and Wales, that a chief constable in deciding whether to charge a member of his force shall consider any voluntary statement which, in terms of Regulation 3, the member must have had the opportunity of making. But Regulation 11 provides that at the hearing of the charge such a voluntary statement shall be inadmissible unless put in evidence by the accused. It would appear to be very difficult for the chief constable to exclude from his mind a statement which he had already been bound by regulation to consider. In our view some amendment is clearly necessary, but the particular difficulty will be obviated if, as we recommend, it is the deputy chief constable who should have the duty of deciding whether or not there should be a disciplinary charge.

457. There is also another respect in which we think the position can be improved. We were told by the representatives of chief police officers that the combined effect of Regulations 3 and 11 ([14]) is to create conditions that are unduly protective to an accused police officer, since they enable him to change his story when he comes up for trial. That this should be so appears to us to be unfair to complainants, and it is scarcely likely to encourage confidence in the ability of the police to investigate complaints properly and fairly. The case for retaining this arrangement was argued by the Police Federation on the ground that voluntary explanations by the police should be encouraged, both in order to reduce the number of disciplinary hearings and also to free a police officer from the risk that a statement made voluntarily might later on be used to his disadvantage. On balance, we think that Regulation 11 should be revoked, but that Regulation 3 should be amended by providing that a police officer be warned that any voluntary statement he chooses to make may be used in

([14]) The corresponding Scottish regulations are 2 and 12.

evidence at a disciplinary inquiry. We think that this will give adequate protection to the officer without the disadvantage, from the point of view of the public, of the present arrangement. We accordingly recommend that the discipline regulations be amended to this effect.

458. A related point concerns statements which a police officer is ordered to make by his superiors in the course of his duty. Circumstances arise in which a statement may be seen to render him liable to disciplinary action. We think, however, that it is objectionable for any such statement to be admitted in a disciplinary hearing save in exceptional circumstances.

Formal hearing before a chief constable

459. The proportion of complaints which result in disciplinary hearings is small, and we think that there are very few complainants whose case gets thus far who remain dissatisfied with the way in which their complaint has been handled. We have, however, formed an impression that disciplinary hearings before a chief constable tend at present to assume too much the character of a criminal trial, in which the defendant may be placed in an unduly strong position. We entirely accept the submission made to us that the consequences to a policeman of a disciplinary finding of guilt, especially where dismissal is involved, may be much more serious than the effect on a member of the public of conviction in a criminal court in respect of an offence of equal gravity. It is therefore of great importance that disciplinary proceedings should be fair. But it does not follow that every feature of a criminal trial should be faithfully copied in the hearing of a disciplinary charge. Indeed in one obvious respect this would be impossible, for a chief constable will rarely be ignorant of the character and record of the man who comes before him.

460. In our opinion the present discipline regulations do not provide chief constables with adequate guidance as to the conduct of disciplinary proceedings, with the result that there are unwarranted variations in practice between one force and another. We therefore recommend that the whole procedure at a disciplinary hearing before a chief constable be reviewed and made as uniform as possible throughout the police service; and that in preparing new regulations Your Majesty's Secretaries of State make no attempt to embody the strict rules applicable to a criminal trial.

461. A particular example of such a rule is the Scottish law of evidence which provides that a conviction cannot be obtained on the uncorroborated evidence of a single witness (popularly known as the "two witness" rule). We do not think that this rule should apply in disciplinary practice. We recommend that a disciplinary tribunal should not be bound by technical rules.

462. We also recommend that the present restriction under which disciplinary proceedings may not be undertaken in Scotland where papers have already been submitted to the fiscal be brought to an end.[15]. In terms of a departmental circular of 1943, if the fiscal or the Crown Office decide not to institute proceedings because of lack of evidence, an allegation against a police officer should not be made the basis of a charge under the

[15] It will be recalled that the responsibility of investigating complaints by the public involving the possibility of criminal offences by the police, and of instituting proceedings, rests in Scotland with the prosecuting authorities and not with the police.

disclipine regulations. As has been pointed out, the requirements as to the sufficiency of evidence in the Scottish courts are very strict. Our recommendation that a disciplinary tribunal should not be bound by technical rules carries with it the consequence that a disciplinary charge and punishment may well be appropriate in a case where the evidence is not sufficient to warrant prosecution in a criminal court.

463. The arrangements which we have proposed in the two immediately preceding paragraphs have a bearing on the Thurso case, to which we referred in paragraph 10. Had they been in operation in 1957, it might well have been found unnecessary to resort to the procedure of appointing a tribunal under the Tribunals of Inquiry (Evidence) Act, 1921.

464. We recommend that the regulations both for England and Wales and for Scotland be reviewed so as to provide for a complainant being given ample opportunity to attend at a disciplinary hearing arising out of his complaint; and that he be entitled to put questions to the police officer of whose conduct he has complained.

Notification of the results of complaints

465. It is essential that every complainant should be told how his complaint has been looked into and the results of the investigation. Some witnesses told us that this does not always happen at present, and that *bona fide* complainants are occasionally left in the dark as to the upshot of their complaints. This is quite indefensible, and is bound to lead to dissatisfaction and friction between the police and the public. We do not think that the nature of the punishment awarded to a police officer should normally be disclosed, but we recommend that a letter, promptly notifying the result of every investigation into a complaint, however trivial, be signed or approved by a senior officer, preferably the chief constable or the deputy chief constable, except in cases in which, because of the unreasonableness or incoherence of the complaint, this course is clearly inappropriate. We also recommend that chief officers of police pay close attention to the style of correspondence which passes between the police and aggrieved citizens. During our visits we have seen letters couched in courteous and sympathetic terms; but our more general impression is that correspondence of this kind tends to be drafted in a rather stiff and formal way, creating the impression that the police are a little reluctant to admit mistakes. Chief constables will lose nothing if whenever appropriate they write understanding and human letters.

Arrangements for supervising the handling of complaints

466. There is at present no one specifically charged with the duty of ensuring that complaints against the police are properly dealt with. Our recommendation that complaints books be kept at the headquarters of every police division, and that these books be examined by inspectors of constabulary, should go a long way towards providing for a regular check to be made on this important part of a chief constable's duties. In addition, we think that police authorities should have a duty to satisfy themselves about the manner in which complaints are handled.

467. We received a substantial volume of evidence in favour of giving police authorities some responsibility in this field. The Association of

Municipal Corporations told us that it is already a common practice for a chief constable of a borough force to be asked to report to a watch committee about complaints,[16] and a witness from the Magistrates' Association instanced a case in which a standing joint committee investigated the manner in which a chief constable had disposed of a disciplinary case since this "would have been material on which it could shape its view as to the future of the chief constable".[17] The County Councils Association also suggested to us that a chief constable should be required to report periodically to the police authority the number and details of complaints, and they suggested that if the police authority were disquieted by these reports they should be entitled to call on the chief constable to submit a special report on the matter.[18]

468. Our recommendation in Chapter VI (paragraph 188) that watch committees in England and Wales be relieved of their present responsibility for discipline disposes of any embarrassment that may arise through a police authority's interest in complaints. We accordingly recommend that arrangements be introduced, on the lines of the suggestions made to us by the local authority associations, under which a police authority will have a duty to satisfy itself that complaints against the police are properly dealt with. In particular we recommend that the rules regarding the reports of chief constables to police authorities (about which we have made a recommendation in Chapter VI, paragraph 164) prescribe that there be included in each annual report a section dealing with the number, nature and disposal of complaints against the police.

469. It not infrequently happens that a complainant dissatisfied with the result of a chief constable's investigation into his complaint may seek to take the matter up with the police authority. The police authority is the natural body to whom such an aggrieved citizen should turn, although it will have no power to intervene in a particular case or to initiate disciplinary proceedings against the constable complained of. We think, however, that it will provide a further useful measure of reassurance to the public to know that a body of local citizens has a recognised entitlement to scrutinise the manner in which the chief constable discharges this part of his duties.

Power of the Secretaries of State to set up inquiries

470. It remains to deal with the case of an aggrieved citizen who fails, as he sees it, to secure redress locally. It is open to him to complain to his Member of Parliament or to any other person whom he regards as influential. We do not think that it is necessary for us to lay down any detailed procedure beyond this point, but occasions may well arise when it is considered desirable to set up an independent inquiry into such a case. The Royal Commission of 1929 observed that the Secretary of State has no simple method of investigating allegations of failure to enforce discipline with appropriate strictness or of inquiry into cases (apart from appeals against a disciplinary award) where the main issue involved is a matter of organisation and administration rather than the conduct of

(16) Minutes of Evidence 11–12, page 638.
(17) Minutes of Evidence 14, Q. 2688.
(18) Minutes of Evidence 16, page 958.

particular members of the force. The Commission accordingly recommended that the Secretary of State be empowered to set up at any time a formal inquiry into matters concerning police discipline and administration with power to call for papers and hear evidence on oath, without having recourse to the cumbersome procedure provided by the Tribunals of Inquiry (Evidence) Act, 1921, with its requirement that there should be a resolution of both Houses of Parliament.[19]

471. This recommendation has not been put into effect, and we do not endorse it. Experience of the working of tribunals appointed under the Act of 1921 has shown that, however necessary they may on occasion be, their procedure contains objectionable features which make them repugnant to our system of justice. Consequently we think that the safeguard of requiring resolutions of both Houses of Parliament before such a tribunal is appointed should continue. This does not, however, rule out the possibility that the Secretary of State may at any time set up an inquiry by administrative action if he should reach the conclusion that specific allegations against the police should be independently investigated. Such an inquiry would not have power to compel the attendance of witnesses or the production of papers, nor would it be empowered to hear evidence on oath. We think that Your Majesty's Secretaries of State should be disposed to use this machinery more readily than has been their practice in the past.

Adequacy of the arrangements proposed

472. These improved arrangements for dealing with complaints should in our view strike a reasonable balance between the interests of the aggrieved citizen and those of the police officer complained of. Moreover, since the adequacy of the arrangements will be more plainly evident, much will have been achieved towards ensuring not only that justice is done to both parties, but also that it is seen to be done. At the same time, the arrangements which we have discussed so far do not deprive the police officer of reasonable protection against the irresponsible or malicious complainant.

473. Even so, there will inevitably remain a number of complainants who continue to express dissatisfaction with the way in which their complaints have been handled. Some people bear a grudge against the police and never admit to being satisfied. Others may protest that a conflict of evidence, involving one man's word against that of another, should have been resolved in their favour. We see no way of satisfying naturally vexatious persons or those who make it their business to advertise suspicion against authority, nor do we see any reason why we should. We share Burke's view that "it is a general popular error to imagine the loudest complainers for the public to be the most anxious for its welfare".[20]

474. Deserving of more serious consideration, however, are those who object in principle to any system in which the police act as prosecutor and judge in trying their own men on disciplinary charges, without provision for appeal by the complainant against the finding. We turn now

(19) Cmd. 3297, paragraphs 290–291.
(20) Observations on a Publication, "The present state of the nation".

to consider whether further arrangements are necessary over and above those we have described—not so much because they are required for the impartial investigation of complaints, but to fortify public confidence in this impartiality by providing for some form of outside intervention in disciplinary proceedings, or for some form of appeal or redress against the decision of a chief constable.

475. This matter was very thoroughly explored in argument before us. The representatives of the Home Departments, the police, and some of the local authority associations were reluctant to concede the case for providing for any intervention by a person outside the police service other than the police authority itself. They put much weight on the view that the morale of the police requires that discipline should rest in the hands of the chief constable; they insisted that complaints are treated seriously and dealt with by chief constables with great thoroughness; they pointed out that there was no sufficient evidence to suggest the need for any further machinery; and they were disposed to think that any additional right for the aggrieved citizen would upset the balance of justice between the citizen and the police. Thus the Police Federation observed :—

> "The Police Federation received, I think, with wry smiles the view that complaints by the public are not properly dealt with in the police service. We feel if there is any balance it is in favour of the member of the public making the complaint".([21])

476. Against this view a substantial body of evidence was submitted, mostly by representatives of legal associations, favouring the adoption of arrangements by which the disposal of complaints would be wholly or partly taken out of the hands of the police. Witnesses differed both as to the extent to which this function should be transferred and as to the most appropriate body to exercise it. Some thought that complaints should no longer be made to the police at all, others that there should merely be an appeal against the chief constable's failure to investigate the complaint adequately, or against his decision after he had investigated it or conducted a disciplinary hearing. Yet others thought that complainants should be entitled to choose whether their grievance should be left to the disposal of the chief constable or put into other hands. The suggested composition of the independent body to determine complaints or appeals ranged from a tribunal of three persons with a legal chairman, through the local watch committee, to a panel of three chief constables. Those who favoured making the Secretary of State responsible to Parliament for the police contemplated that complaints might, if necessary, be dealt with by means of Parliamentary Question and Answer. These arrangements were all designed with a common end in view—to ensure that justice should be seen to be done, and that the arbiter of the case should no longer be the superior officer and the virtual employer of the man complained of.

477. We ourselves are unanimously of the opinion that the present procedure, amended as we have proposed, will almost always provide for the proper and impartial investigation of complaints. But we are not

([21]) Minutes of Evidence 18, Q. 3615.

completely unanimous on the question whether any system which places the investigation and determination of complaints from start to finish in the hands of the police alone can be expected to command public confidence and thus, in the words of our terms of reference, be regarded as a sufficient means of ensuring that complaints by the public against the police are effectively dealt with.

478. The majority of us think that the case for providing additional machinery could be made out and justified only if there was evidence that relations between the police and the public were bad, that complaints are not properly dealt with under the present system, and that this system could not be adapted in such a way as to claim public confidence in a greater measure than has been possible hitherto. To most of us it seems that none of these conditions is satisfied. We gave reasons in the last chapter for thinking that the relationship between the police and the public is good. We have no reason to think that the police are unfit to deal with complaints: on the contrary, we are satisfied that complaints are dealt with thoroughly and impartially. Moreover, we have proposed substantial improvements in the present system which meet any reasonable criticism. If the complaint is of conduct amounting to a crime the question of prosecution will have been decided by the Director of Public Prosecutions in England and Wales or by the Crown Office in Scotland. If it amounts to a civil wrong the complainant will be entitled to sue the police authority, whether or not he can identify the police officer concerned. Hence the only clear field in which disposal of a complaint will still be dependent on the unaided decision of a chief constable will comprise complaints either not so serious as to give rise to legal action, or in which the complainant for reasons that may appear reasonable to him does not wish for a prosecution or is unwilling to sue. But even in this field our proposals for the reform of disciplinary procedure, for the systematic recording of complaints, for a measure of surveillance by the police authority and the inspectorate over the treatment of complaints, and for ensuring courtesy in the replies that are sent to complainants should go a very long way towards removing the last risks of an unfair or careless inquiry, and towards commending the procedure to any reasonable member of the public. To go further than this would in our view be unnecessary and unwise, and might in the end produce much greater dissatisfaction among the public than it would remove. Above all we think that the interests of the public can best be served by resisting any innovation which may weaken the strength and resolve of the police in their fight against crime.

479. Three of us, on the other hand, think that the measures so far proposed are inadequate to enable the public to feel assured that complaints are properly dealt with. To this minority it appears that the need to ensure that justice should be seen to be done overrides the considerations set out in the preceding paragraph. They fully share the confidence of their colleagues in the fitness of the police to deal with complaints, and think that any preliminary investigation must continue to be in police hands. Moreover, they think that police discipline should remain the responsibility of the chief officer. But in their view this misses the point: no harm can result from the imposition of some form of independent external check on the actions of chief constables in handling complaints, and the interests of

justice and of the public, no less than those of good relations between the police and the public, require it. Moreover an independent body would be able to review in a simple and effective manner the conduct of chief constables in handling incidents wider in scope than those which merely give rise to complaints by individual members of the public against individual policemen. Those of us who are of this opinion would therefore like to see a Commissioner of Rights appointed, with the duties, and under the arrangements, described in Appendix V.

CHAPTER X

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

480. We summarise the more important of our conclusions and recommendations as follows:—

The Scope of the Report (Chapter II)

(1) Our recommendations are designed to secure three objectives: a system of control over the police which will achieve the maximum efficiency and the best use of manpower; adequate means of bringing the police to account; and proper arrangements for dealing with complaints. We do not think that the present system adequately secures the first two of these objectives, and there is some dissatisfaction with regard to the third (paragraphs 19–21).

(2) The objectives we propose can be achieved without any fundamental disturbance of the present police system, but local police forces should be brought under more effective central control (paragraph 22).

The Purposes of the Police and their Constitutional Position (Chapter IV)

(3) The present status of the constable has been defined by the courts as that of an officer whose authority is original, not delegated, and is exercised at his own discretion by virtue of his office; he is neither a Crown servant nor a servant of the police authority. (paragraphs 63–65).

(4) We do not recommend any alteration in the legal status of police officers of any rank (paragraphs 69, 71 and 151).

(5) Chief constables should be subject to more effective supervision (paragraph 92).

Arrangements for the Control of the Police (Chapter V)

(6) We do not recommend the introduction of any new form of control over the activities of police officers below the rank of chief constable (paragraph 101).

(7) The powers of justices of the peace in England and Wales to give orders to the police are little used, and we *recommend* that the law concerning the relations between the police and justices of the peace be examined with a view either to its repeal or to bringing it into line with modern requirements (paragraph 107).

(8) There is a substantial case for creating a national police service. Its organisation would be more logical, and a number of us think that it would prove to be a more effective instrument for fighting

crime and handling road traffic than the present large number of partially autonomous local forces (paragraph 128).

(9) We do not regard the creation of a national police service as constitutionally objectionable or politically dangerous (paragraphs 134-139).

(10) We think, however, that there is much value in a system of local police forces, and that the improvements which we regard as desirable can be achieved on the basis of the present police system. We therefore reject the case for creating a national police service, and we *recommend* the continuance of a system of separate local police forces (paragraphs 140–150).

The Police Authority (Chapter VI)

(11) Police authorities should have four main duties: to provide and equip an adequate police force; to constitute a body able to advise chief constables on local conditions; to appoint, discipline and remove senior officers of the force; and to play an active rôle in fostering good relations between the police and the public (paragraph 154).

(12) We *recommend* that legal responsibility for the efficient policing of an area be transferred from police authorities to the Secretaries of State (paragraphs 159 and 230).

(13) We *recommend* that inspectors of constabulary always meet the chairman and members of a police authority during the course of inspections of police forces. The attention of the authority should be drawn formally to any matter concerning its responsibilities (paragraph 160).

(14) We *recommend* no alteration in the principle of sharing the cost of the police equally between the rates and the Exchequer (paragraph 161).

(15) Although police authorities will no longer be legally responsible for the efficient policing of the area, they will have a duty to give advice and guidance to chief constables. We therefore *recommend* that police authorities in England and Wales be given the same powers as Scottish police authorities to call for reports from chief constables on matters relating to policing; but that a chief constable be entitled to refuse a request for a report, subject to a determination of the matter by the Secretary of State (paragraphs 162–163).

(16) We *recommend* that chief constables in England and Wales be required, as they are in Scotland, to submit to police authorities annual reports on the policing of their areas; and that, as regards both England and Wales and Scotland, guidance be given by the Secretaries of State as to the form and contents of annual reports (paragraph 164).

(17) The right of a member of a council to ask questions of the chairman of a police authority should be recognised, on the understanding that

there would be no obligation to reply if to do so would be contrary to law or the public interest (paragraph 165).

(18) We do not recommend any change in the principle that a police authority should be responsible for appointing its chief constable subject to the approval of the Secretary of State, but we think that in general chief constables should be appointed from another force. We *recommend* that seven years from now a rule be introduced that a period of recent service in another force be made a condition of appointment as a chief constable (paragraphs 169–170).

(19) We *recommend* that deputy and assistant chief constables be appointed by the police authority after consultation with the chief constable, and that the appointment be subject to the approval of the Secretary of State (paragraphs 171–172).

(20) We *recommend* that a tribunal appointed in England and Wales under the Discipline Regulations to hear a charge against a chief constable, deputy chief constable or assistant chief constable, be a person selected from a list of persons nominated by the Lord Chief Justice, and be not composed of members of a police authority (paragraphs 175 and 185).

(21) We *recommend* that the provisions of the County Police Act, 1839, and the Municipal Corporations Act, 1882, in relation to the suspension and dismissal of chief constables, deputy chief constables and assistant chief constables be repealed (paragraphs 176 and 185).

(22) We *recommend* that improved arrangements be made to enable a police authority, with the approval of the Secretary of State, to retire a chief constable, deputy chief constable or assistant chief constable in whom it has lost confidence, and that these arrangements be made the subject of statutory provision (paragraphs 179–180).

(23) We *recommend* that the police authority be the disciplinary authority for deputy and assistant chief constables in county and combined forces in England and Wales, thus making the pattern in this respect uniform throughout Great Britain (paragraph 184).

(24) We *recommend* that the powers of watch committees in relation to the appointment, promotion and discipline of subordinate ranks be transferred to chief constables, and that watch committees cease to have an appellate function in regard to discipline (paragraphs 186–188).

(25) We *recommend*, as regards subordinate ranks, that a police authority's power under Regulation 52 of the Police Pensions Regulations to retire an officer in the interests of the efficiency of the force be exercisable only with the approval of the Secretary of State, and that instructions be given that this power may not be applied as a standing rule to provide for the automatic retirement of officers in the sole interests of promotion policy (paragraph 189).

(26) We *recommend* that the statutory provisions, other than those of the Police (Discipline) Regulations, relating to the suspension and

dismissal of police officers of subordinate rank be repealed ; and that the discipline regulations be reviewed to provide for a police officer to be suspended in such a way as to prevent him from resigning to avoid disciplinary action (paragraph 190).

(27) We *recommend* that the status of police cadets be reconsidered with a view to giving chief officers of police control over them (paragraphs 192–194).

(28) We *recommend* that police authorities be made liable for the wrongful acts of police officers (paragraphs 195–202).

(29) Chief officers of police should, in the absence of special circumstances, disclose the names of men on duty on a particular occasion so as to enable an aggrieved person more easily to identify a policeman against whom he wishes to seek a legal remedy (paragraph 202).

(30) We *recommend* that standing joint committees be required to submit estimates of police expenditure for the approval of county councils (paragraph 205).

(31) We *recommend* that police authorities in England and Wales consist as to two-thirds of members of the appropriate council or councils and as to one-third of co-opted justices. The justices should be elected in counties by quarter sessions and in boroughs by the local body of justices for automatic co-option to the police authority (paragraphs 210 and 220).

(32) We *recommend* that the size of all police authorities be reviewed, with the object of restricting them to the smallest practicable number (paragraphs 211, 216 and 220).

(33) We *recommend* that police authorities (other than combined authorities) in England and Wales, constituted as we propose, be committees of the local authority, and that their appointment be made obligatory by statute. The chairman of the police authority should be a member of the local authority. The police authority in English and Welsh city and borough forces should continue to be called the watch committee, but we recommend that the title " standing joint committee " be discontinued in favour of " police committee " (paragraph 212).

(34) We *recommend* that in Scotland the police authority for an individual or a joint police area be a police committee and not the whole council or the constituent councils, and that the appointment of such a committee be made obligatory by statute. The committee should consist wholly of elected councillors (paragraphs 214–216 and 219).

(35) We *recommend* that in Scotland combined police authorities have the right to requisition for police expenditure upon their constituent councils, thus making the pattern in this respect uniform throughout Great Britain (paragraph 219).

(36) We *recommend* that, where a combined police area is formed in England and Wales, the standing joint or watch committees which were the former police authorities be abolished and their residual functions transferred elsewhere (paragraph 221).

(37) We do not recommend any change in the Home Secretary's position as police authority for the Metropolis (paragraph 223).

(38) We *recommend* that provision be made for confidential consultation between the Receiver and the local authorities in the Metropolitan Police District before the Metropolitan Police estimates are presented to Parliament (paragraph 227).

(39) We do not recommend any change in the arrangements for the policing of the City of London (paragraph 228).

The Central Authority (Chapter VII)

(40) We *recommend* that the Home Secretary and the Secretary of State for Scotland be made statutorily responsible for the efficiency of the police in England and Wales and in Scotland respectively (paragraph 230).

(41) The Secretaries of State should be responsible for four matters: for securing that police authorities carry out their duties satisfactorily; that each separate police force is efficient; that groups of forces collaborate to promote the efficient policing of wider areas; and that proper ancillary services are provided (paragraph 231).

(42) We *recommend* an amendment of the conditions governing the payment of Exchequer grant to police authorities (paragraph 233).

(43) We *recommend* the creation of a post of chief inspector of constabulary for Great Britain, and that this post be filled without delay. The appointment should be made jointly by the Home Secretary and the Secretary of State for Scotland (paragraphs 237 and 252).

(44) We *recommend* the establishment of a central unit, under the general direction of the chief inspector of constabulary, with responsibility for planning and research (paragraph 241).

(45) We *recommend* that the number of inspectors of constabulary in England and Wales be increased from five to eight to correspond with the number of police districts outside the Metropolitan area, and that a second inspector of constabulary be appointed in Scotland. Each inspector should have an office in the district to which he is appointed, and he should have the assistance of a staff officer. The adequacy of the arrangements made for inspecting the women police should be reviewed (paragraph 247).

(46) The duties of the inspectors of constabulary should be as follows: to inspect and report upon each police force including the arrangements made for dealing with complaints against the police; to assess the adequacy of the provision made by the police authority; to ensure that the benefits of research are made available, and that

new knowledge and techniques are being applied; and to advise on arrangements for promoting collaboration between forces and the development of ancillary services (paragraph 250).

(47) We do not recommend that inspectors of constabulary be given powers of direction over chief constables or police authorities (paragraph 251).

(48) We *recommend* that inspectors of constabulary in England and Wales be freely interchangeable between police districts, and that arrangements be made to ensure that the Metropolitan force, as well as other forces, receives the advantages of the re-organised inspectorate and the benefits of research and planning (paragraphs 252–253).

(49) The remuneration and conditions of appointment and service of the inspectorate should be reviewed to ensure that the best men are available for appointment as inspectors of constabulary (paragraphs 254–255).

(50) We do not recommend the creation of a national C.I.D., but a duty should be placed on the re-organised inspectorate to encourage and stimulate within each police district the means of fighting crime (paragraphs 259–269).

(51) The re-organised inspectorate, with the backing of central research, should have a duty to advise on problems of policing connected with road traffic (paragraphs 270–271 and 321).

(52) We *recommend* that the Secretaries of State be given power to make schemes, subject to Parliamentary approval, for securing co-ordination between police forces (paragraph 273).

(53) Police forces numbering less than 200 suffer considerable handicaps and the retention of forces under 350 in strength is justifiable only in special circumstances. The optimum size of a police force is at least 500 (paragraph 280).

(54) We *recommend* an urgent review of the number of Scottish police forces (paragraphs 281 and 288).

(55) There is at least a case for considering that each conurbation be policed by a single police force (paragraph 282).

(56) We *recommend* the immediate appointment of an expert working party with the duty to review police areas and to report to the Secretaries of State as a basis for the amalgamation of police forces (paragraph 286).

(57) We *recommend* that the statutes which govern the formation and amalgamation of police forces be amended so as to check the creation of new forces (paragraph 289).

(58) We *recommend* that the powers of the Secretaries of State to make schemes for the compulsory amalgamations of police forces be exercisable without restriction as to the population of the areas affected,

and that the procedure at inquiries into amalgamation schemes be altered so as to facilitate the merger of forces (paragraph 289).

(59) We *recommend* that statutory provision be made to authorise a Secretary of State to allow to stand on a short list of candidates for a post of chief constable only the names of persons any one of whom he is prepared to approve for appointment; and that the practice of suggesting the names of additional persons who might be suitable for the post also be given statutory authority (paragraph 290).

(60) We *recommend* that the Secretaries of State be given power to request a police authority to retire its chief constable on the ground of inefficiency (paragraphs 291–292).

(61) We *recommend* a new system for the selection and appointment of recruits to the police service (paragraph 306).

(62) The police service is failing to attract a sufficient number of recruits of the quality required to make future leaders (paragraphs 308–313).

(63) We *recommend*, as a means of attracting a proportion of able men into the police service, that the minimum qualifying period for promotion from constable to sergeant be reduced from five to three years (paragraph 314).

(64) Some of us think that consideration should be given to abolishing the title "Sergeant" in favour of some such title as "Sub-Inspector", with a modification of the badge of rank (paragraph 315).

(65) There should be freer interchange between police forces at higher levels (paragraph 318).

(66) We *recommend* that the independent chairman of the Police Council for Great Britain be replaced by a chairman who is a senior official of the Home Office, and that the deputy chairman of the Council be a member chosen by the staff side (paragraph 319).

(67) We *recommend* that, in the preparation of new legislation, every effort be made not to impose on the police fresh duties which would diminish their concentration on fighting crime (paragraph 320).

(68) We *recommend* that the present responsibilities of the police be reviewed with the aim of transferring elsewhere any duties which it is not essential that they perform themselves (paragraphs 320–321).

(69) We *recommend* that the Home Secretary be empowered to call for reports from chief constables on matters connected with the policing of the area (paragraph 323).

The Police and the Public (Chapter VIII)

(70) We *recommend* that instructions about the importance of a proper relationship between the police and the public, on the lines of those issued to the Metropolitan force, be included in the syllabus of every recruit's training (paragraph 330).

(71) The findings of the Government Social Survey indicate that relations between the police and the public are good; there is no reason to suppose that they have ever, in recent times, been otherwise. Most people have great respect for the police, and public opinion of them has changed for the better rather than the worse (paragraphs 338–340).

(72) Unsatisfactory features in the relationship between the police and the public are: indications of antagonism towards the police among young men and women and among motorists; a decline in public standards of behaviour; insufficient readiness on the part of the public to help the police; and unawareness on the part of the police of their high standing in the eyes of the public (paragraph 350).

(73) Further study of the problem posed by the attitude of younger people towards the police is called for (paragraph 350).

(74) Chief police officers should bear in mind the need to allocate an adequate number of men to beat duties, where they will be in touch with the public (paragraph 352).

(75) Policemen should wherever possible be housed in residential areas and not in accommodation separate from the rest of the community (paragraph 353).

(76) Chief police officers should from time to time review their practice of transferring constables, so as to take account of the advantage of allowing a policeman to gain a thorough knowledge of the community he serves (paragraph 354).

(77) We *recommend* that chief officers of police review the scope of the formal and informal contacts between their forces and the local community, with the object of developing them so far as possible (paragraph 355).

(78) We attach importance to the special constabulary, both as a valuable supplement to the regular police and as a link between the police and the public. We *recommend* that, where contingents of special constables are weak, police authorities and chief officers review their recruiting arrangements in order to bring them up to strength (paragraph 359).

(79) We *recommend* that the restrictions on the employment of special constables in Scotland be removed (paragraph 360).

(80) We *recommend* that the government departments concerned explore the possibility of including in the school curriculum instructions on the duties and functions of the police, and their need of help from the ordinary citizen (paragraph 364).

(81) We *recommend* that a responsibility be placed on the senior police officer in attendance at court to transmit to the chief officer of police any criticism of police witnesses that may be made by the court, and to note any features of police evidence which call for comment (paragraph 371).

(82) Anything which gives a mistaken impression of the respective functions of the police and the courts should be avoided. We *recommend* that the Scottish titles "police court" and "police judge" be discontinued, and that police officers be replaced by civilian ushers wherever possible (paragraph 375).

(83) We *recommend* that consideration be given to the appointment of a prosecuting solicitor for every police force in England and Wales where this is not already the practice. We also *recommend* that the employment in England and Wales of police officers as advocates for the prosecution be reviewed (paragraphs 380–381).

(84) We *recommend* a review of sections of the highway law in the interests of more uniform enforcement (paragraphs 387–388).

(85) We *recommend* that chief officers of police, in consultation with other authorities concerned, formulate uniform policies in regard to the enforcement of the traffic laws. These policies should be given adequate publicity (paragraphs 390–391).

(86) We are opposed to suggestions that a separate corps of traffic police should be created and that traffic offences should be heard separately from other offences in the lower courts (paragraph 393).

(87) The press do not, in general, act irresponsibly in reporting police activities (paragraph 402).

(88) Arrangements made in police forces for supplying news to the press are uneven, and we commend standardised arrangements to the attention of chief officers of police (paragraph 404).

(89) The need for cultivating good relations between the police and the public should be constantly borne in mind by police authorities and chief constables, and they should make whatever local provision is appropriate to the needs of the particular area (paragraphs 412–413).

Complaints against the Police (Chapter IX)

(90) The number of complaints against the police is very small in relation to the number of policemen, and we have no reason to think that they have significantly increased over the years (paragraphs 417–418).

(91) Slightly over half of those who complain against the police express satisfaction with the way in which their complaint has been handled (paragraphs 426–427).

(92) We have no reason to doubt that chief police officers and other senior officers investigate complaints fairly and thoroughly (paragraph 428).

(93) The problem of ensuring that complaints against the police are effectively dealt with is to devise arrangements which are acceptable both to the police and to the public as fair and just, not favouring either at the expense of the other, and not weakening the morale of the police and their resolve to fight crime (paragraph 433).

(94) We *recommend* that wherever an allegation discloses that a criminal offence may have been committed by a police officer against a member of the public the decision whether or not to institute criminal proceedings be invariably taken by the Director of Public Prosecutions in England and Wales in the same way as it is taken by the Crown Office in Scotland (paragraph 439).

(95) We *recommend* that a police officer be entitled to appeal to the Secretary of State against any punishment which he may be awarded following a disciplinary charge and not only, as at present, against the more serious punishments (paragraph 448).

(96) We *recommend* that provision be made for every complaint by a member of the public against a police officer to be recorded in a book to be held at divisional headquarters. A duty should be placed on the inspectors of constabulary to examine complaints books so as to satisfy themselves that complaints have been properly dealt with. Complaints books should also be open for inspection by the police authority (paragraph 450).

(97) We *recommend* that a standard leaflet be brought into use throughout the police service containing notes on the procedure adopted for dealing with complaints. Such a leaflet should be given to every complainant (paragraph 451).

(98) We *recommend* that the decision as to the disposal of every complaint against the police be taken by the chief constable or, in his absence, the deputy chief constable (paragraph 452).

(99) We *recommend* that wherever practicable an investigating officer appointed to conduct a formal investigation under the Police (Discipline) Regulations be appointed from a division of the force other than that in which the alleged offender is serving (paragraph 453).

(100) We *recommend* that the officer vested with authority to put a police officer on a disciplinary charge be the deputy chief constable, and not, as in England and Wales, the chief constable or, in Scotland, the investigating officer (paragraphs 454–455).

(101) We *recommend* the revocation of Regulation 11 of the Police (Discipline) Regulations, 1952, and the corresponding regulation for Scotland, which provide that at the hearing of a charge any voluntary statement made by an accused officer shall not be admitted unless put in evidence by the accused. Provision should, however, be made for a police officer to be warned that any voluntary statement he chooses to make may be used in evidence. No statement which a police officer is ordered to make in the course of his duty should be admitted in a disciplinary hearing save in exceptional circumstances (paragraphs 456–458).

(102) We *recommend* that the procedure at a disciplinary hearing before a chief constable be reviewed and made as uniform as possible

throughout the police service. The procedure should not embody the rules applicable to a criminal trial (paragraphs 459–461).

(103) We *recommend* that the present restriction under which disciplinary proceedings may not be undertaken in Scotland where papers have already been submitted to the fiscal be brought to an end (paragraph 462).

(104) We *recommend* that provision be made for a complainant to attend at a disciplinary hearing arising out of his complaint, and that he be entitled to put questions to the accused police officer (paragraph 464).

(105) The nature of the punishment awarded to a police officer should not normally be disclosed, but we *recommend* that a letter notifying the result of every investigation into a complaint be always signed or approved by a senior officer (paragraph 465).

(106) Chief officers of police should ensure that correspondence with complainants is conducted in courteous and sympathetic terms (paragraph 465).

(107) We *recommend* that police authorities be given a duty to satisfy themselves that complaints against the police are properly dealt with, and that the annual reports of chief constables include a section dealing with the number, nature and disposal of complaints against the police (paragraphs 466–469).

(108) We *recommend* that the Secretaries of State should be more ready to set up inquiries by administrative action to investigate specific allegations against the police (paragraphs 470–471).

(109) We are unanimously of the opinion that the present procedure, amended as we have proposed, will almost always provide for the proper and impartial investigation of complaints against the police (paragraph 477).

(110) The majority of us are opposed to the provision of any arrangements to provide for an independent review of the manner in which complaints against the police are dealt with (paragraph 478).

(111) Three of us are of the opinion that a Commissioner of Rights should be appointed, under the arrangements described in Appendix V, to review the decisions of chief officers of police in dealing with complaints from the public and the conduct of the police in handling particular incidents (paragraph 479).

ALL OF WHICH WE HUMBLY SUBMIT FOR YOUR MAJESTY'S GRACIOUS CONSIDERATION

HENRY WILLINK (*Chairman*)

GEDDES OF EPSOM*

IAN JACOB

GEORGE TURNER*

JAMES J. ROBERTSON

CHARLES BURMAN

O. TEMPLE-MORRIS

KATHLEEN RYDER RUNTON*

W. I. R. FRASER*

C. LESLIE HALE

H. A. HETHERINGTON*

J. W. MACFARLANE*

MARGARET RICHARDSON

T. A. CRITCHLEY (*Secretary*).

D. G. MACKAY (*Assistant Secretary*).

24*th May*, 1962.

* NOTE: Those Commissioners whose signatures are marked with an asterisk have signed the report subject to their Notes of Reservation in the immediately following section.

RESERVATIONS

Note of Reservation by Mr. Fraser and Dr. Macfarlane

We do not agree with the recommendation in paragraphs 237 and 252 of the report to the effect that the same person should be appointed as chief inspector of constabulary for England and Wales and for Scotland. We consider that the nature and conditions of police duties in Scotland differ so substantially from those obtaining in England and Wales that it is unlikely that one chief inspector could cover both countries efficiently. Further we think it is doubtful whether a chief inspector, appointed by the Home Secretary jointly with the Secretary of State for Scotland, and responsible to both Secretaries of State, could function satisfactorily.

Note of Reservation by Lord Geddes of Epsom, Sir George Turner and Mr. Hetherington

1. In our view the recommendations which the Commission have been able to make do not go far enough to strengthen the police forces in the main war against crime. Prevention must be the prime consideration, and a major deterrent to criminal activities is the likelihood of detection either of the crimes themselves or the preparations for them. Crime statistics show that the rate and speed of detection is not high enough to provide this deterrent effect in many fields of criminal activity. It is because we consider there is urgent need to provide for more effective action in this respect that we submit this Reservation and recommend an increase in the strength of the detective establishment of the various police forces and an improvement in the method of recruitment of police for detective duties.

2. Statistics submitted to the Commission showed that the detective complement of the forces in the Metropolitan area was 8 per cent. of the regular establishment; in counties 8 per cent.; in cities and boroughs 9 per cent.; in Scotland, in counties 5 per cent. and in cities and burghs 7 per cent. of the regular establishments. These figures do not suggest an undue diversion of the available manpower and confirm the evidence we have received that the detective forces are undermanned and overworked.

3. The expert evidence on the allocation of individual policemen within the areas policed was strongly in favour of putting the maximum numbers on the "beat". The detective forces are assisted by plain clothes policemen and this indicates the need for augmenting the detective forces. It is possible that the difficulty of recruiting sufficient numbers of constables has been a contributory factor in keeping the establishments of detective forces low. It is our view that serious consideration should be given to increasing the size of the detective establishments within each force.

4. We agree with the views expressed in the main report about the need for entrants with higher educational qualifications and for the need for recruiting specialists, etc., etc. Paragraph 308 of the report indicates

the extremely limited recruitment in these fields during recent times. We do not consider that the recommendations 63 and 64 will have any marked effect upon this type of recruitment, if they have any at all.

5. The grammar school boy with G.C.E. passes at advanced level and the graduate with, for example, a science degree are more likely to be attracted into the detective establishments than as normal entrants into the police. Further we consider that exceptional conditions of entry are a prerequisite to any success in recruiting at this level. This is not unusual practice in industry and with public bodies.

6. In our view moreover the special qualities needed to make a good detective are not adequately compensated under the present system. A detective constable may be called upon to undertake very difficult and complicated investigations requiring qualities not necessarily required from a police constable in the normal course of his duties. Expert evidence stated *inter alia* ". . . but it is on the detective staff that the main burden falls of seeing that crimes are investigated and the perpetrators brought to book": again:—". . . In unravelling and piecing together the story he needs to appreciate the subtle distinction to be drawn . . . between witnesses, suspects and offenders. There are things to be done to get the case prepared so that it can be presented properly in court. Police, medical, forensic or other reports, and statements of witnesses, have to be weighed and compared; regard must be had to the law relating to the particular charge, to the laws and rules as to evidence, as well as the various procedures relating to antecedents and convictions of offenders, outstanding charges, production of exhibits, plans and photographs, etc.".

7. We propose therefore the following scheme for direct recruitment into the detective forces in England and Wales and in Scotland:—

Up to one half of the total detective establishments should be recruited from men with G.C.E. passes at advanced level and from graduates, at appropriate age levels.

The conditions of employment should be:—

After preliminary training common to all recruits they would serve say for one year in the uniformed police, performing the normal duties of a uniformed constable.

At the end of this period they would automatically be transferred to the detective establishment with the rank of probationary sergeant and would serve on probation for a period of three years (or some lesser period). If successful at the end of probation they would be appointed to the detective establishment with the substantive rank of detective sergeant.

The remainder of the detective establishment would be recruited as now except that a constable on transfer would be promoted probationary sergeant for the same period as the direct entrant (or less) and then confirmed in the substantive rank.

To make detective service more attractive and therefore recruitment more selective the lowest substantive rank in the detective forces should be that of sergeant and all higher ranks should be suitably adjusted, i.e. the present rank of sergeant to be inspector, and so on.

8. It has been argued against this scheme that it would segregate the detective establishments from the rest of the force; that it would prevent interchangeability between the two forces; that it would create a *corps d'élite*; that it would make the administration of the establishment more difficult; that it would prevent co-operation between the uniformed and plain clothes sections, and in fact would create antagonisms which do not at present exist; and finally that it would cost too much.

9. We do not accept the logic of these arguments. The mere fact of special entry for a very small number of the total force in no way pre-supposes segregation nor can it possibly prevent interchangeability—certainly not as regards the 50 per cent. or more of entrants from the uniformed force. As regards the special entrant, he will have some knowledge of the uniformed side through his initial entry, and his knowledge of the detective side of the force cannot presuppose that he is unfitted to become an inspector on the uniformed side should he be considered suitable and should it be desirable for him so to serve. The fact that he has, to a greater extent than others, been confined to detective work cannot possibly destroy his gifts of leadership if he possesses them. The detective force is at present separate without being segregated and there must be a different pride in serving in this separate force. This is very desirable but there is no evidence that this has created a *corps d'élite*—even if this is undesirable in itself. Again it is difficult to see why a force differently recruited and different in structure in minor respects should be more difficult to administer, and no one has produced any effective argument to show that this is so. Further if co-operation at present exists between the two sections of the force there would appear to be no good reason why it should cease under the proposed changes and structure or why any antagonism should be created. As to increased cost, in expert evidence submitted to the Commission it was stated: "The average annual value of property stolen or obtained by fraud in the country is probably of the order of £20 million of which less than a quarter is recovered . . . and is but a fraction of the cost to the community". The cost of this scheme would be a small price to pay for attracting recruits of the right type and improving the rate of detection and conviction. The criminal statistics show that from 1938 to 1960 larceny, breaking and entering, receiving, frauds and false pretences, sexual offences, violence against the person, with a small residue of other offences had increased from 283,220 to 743,713, an increase of approximately 225 per cent. In 1938 only 50·1 per cent. of crimes reported were detected and in 1960 only 44·4 per cent.

10. It would appear that the majority of the Commission are of opinion that if the recommendations of the report of the Committee of the Police Council on Higher Police Training (December, 1961) are implemented one effect will be to attract the desired number of educationally higher qualified entrants. We do not share this view. The recommendations will doubtless have an important effect upon selection for promotion and promotion prospects of those already in the various forces, but placed before the grammar school leaver and the graduate as a reason for choosing the police as a career the effect, in our opinion, would not be to impress. If anything the contrary would be the case since promotion in future will be somewhat more difficult and not easier to obtain.

11. Finally we would point out that, under present day conditions, it is no longer possible for large organisations to work on the basis of completely interchangeable staff. Specialist branches are as inevitable as specialisation and their requirements of personnel must be met by exceptional methods of selection and recruitment. Our proposals go no further than suggesting for the police a modification of structure which has been generally accepted elsewhere; and to invite them to do as others have done and to incorporate the specialist into their organisation. We believe it can be done successfully. We have, for that reason, made no attempt to formulate precise recommendations, for the details of such a change must be worked out by those who are concerned with the working of the police organisation.

Note of Reservation by Mrs. Ryder Runton

1. I regret that I am unable to agree with the whole of the recommendation contained in paragraph 319 which deals with the chairmanship of the Police Council. I agree that the Police Council for Great Britain, the negotiating body of the police service, should cease to have an independent chairman. I do not, however, subscribe to the view that the chairman should necessarily be a senior official of the Home Office.

2. It is a constant theme of the Commission's report that the police service should continue to be administered by a partnership between central and local government. In this partnership chief constables also have an important rôle to play. The recommendations made in the report are designed to clarify the functions of the respective partners, which hitherto have been the subject of differing interpretations and upon which the legal position is obscure. The intention is not to reduce the responsibilities of police authorities in any fundamental sense. Indeed in some respects they are increased. Nor is there any proposal to alter the financial arrangements whereby the cost of the police service is shared equally between central and local government. Consequently, I consider it to be inappropriate to provide for a change in the constitution of the Police Council which would be inconsistent with the important responsibilities which police authorities will continue to exercise.

3. I accept that in the case of Whitley Councils, which are the negotiating bodies for the Civil Service, it is appropriate that the chairman should be an official of a government department. These bodies are concerned with employees who are the sole responsibility of the central Government as employers. But there is, I suggest, no analogy between bodies of this kind and a negotiating body composed of representatives of local and central government and of the police.

4. In my view the arrangements for appointing a chairman for the Police Council should be similar to those usually adopted in other negotiating bodies concerned with pay and conditions of service in local government, namely, that the body elects its own chairman from among its members. Such an arrangement would promote good relationships within the Council and, I think, commend itself to the constituent bodies—the central Departments, representatives of local government, and the police.

for them "the New Police", as they were called in the Act, who were to constitute a disciplined force under the control and orders of two paid magistrates acting as Commissioners of Police.(6) These Commissioners were themselves subject to the control of the Secretary of State, who was responsible to Parliament. Sir Edward Troup(7) was not exaggerating when he referred to

> "the immense, almost revolutionary, change which was brought about when the old parish constables were replaced by the organized and trained police forces which now cover the country. The change, long overdue, became inevitable under the modern conditions which had begun to prevail at the end of the eighteenth century. If highwaymen and thieves had been left to work on the lines of other modern organizations and to arm themselves with modern inventions and devices without any effective counter-organization, the advances of civilization of the last hundred years would have been impossible."

4. In the boroughs the old system of parish constables and watchmen had broken down completely with the advent of the Industrial Revolution. Peel's Metropolitan Police Act, 1829, was therefore followed in large part in the Municipal Corporations Act, 1835, to create an entirely new disciplined police force. In the place of the parish constable was put the police constable whose duty it was to obey the lawful orders of the magistrates; if he failed to do so he was liable to imprisonment for any time up to ten days or to be dismissed from his office by the justices. There was no suggestion in the Act that he was in any way bound to obey the local watch committee.

5. Although the 1835 Act resembled the 1829 Act in many respects, it differed from it in three major matters:

(*a*) The newly established borough council was placed under the duty to appoint a watch committee whose function it was to appoint a sufficient number of men as constables and to make regulations for their management; in London, on the other hand, the police authority was the Home Secretary;

(*b*) although the new constables were subject to the orders of the magistrates, there was no provision that any particular magistrates should be paid to be in charge of the police, as were the Commissioners in London;

(*c*) the magistrates did not act as commissioners and were not responsible to the Home Secretary.

6. The effect of these provisions was that the ordinary police constables were subject to the orders of the chief or head constable, an office that was unknown to the law, but that he, although in principle subject to the orders of the magistrates, was in practice uncontrolled. The chief constables did not usurp this position both of authority and of independence: it was forced on them because there was no one else to exercise control. In particular, the Home Secretary had no part to play in this, as he had no legal right to give directions to the borough council, the watch committee, or the chief constable, as he could to the Commissioners in the Metropolis.

7. In the counties there was less need for a police force, so the old system tended to continue. In 1839 statutory powers were given by Parliament to the quarter sessions courts to create police forces for rural districts, but only a limited number of such forces were established. In 1856 these discretionary powers were converted into compulsory ones so that county police forces were established in all the counties. This County and Borough Police Act, 1856, is of particular interest for two reasons. In the first place statutory recognition was given in section 9 to the "head constable" in the boroughs. In the second place the Act in section 15 provided for the appointment of three inspectors of constabulary to inquire into the state and efficiency of the police in counties and boroughs. They were given no administrative powers, but the importance of their inspections lay in the fact that upon the certificate of the Home Secretary that the force was efficient, the Treasury would contribute one quarter (later raised to one half) of the police expenditure. Although this Act gave no compulsory powers to the Home Secretary, as the county or borough forces could refuse inspection if they were willing to forgo the contributions, nevertheless it was regarded by some Members of Parliament as revolutionary and unconstitutional. Mrs. Hart[8] has summarised some of the attacks that were made on the Bill in Parliament as follows:

> "It took away the right of self-government and destroyed local institutions which had existed since Alfred; by requiring Chief Constables to make annual reports to the Home Secretary as to the state of crime, it was no better than the Continental spy system . . . the Town Councils were models of efficiency . . . the proposal to give a Chief Constable control over his men might have originated from an Austrian or Russian nobleman; indeed it was the most un-English measure ever seen and seemed more fitted for Naples than for England."

8. I have quoted this passage at some length as it illustrates the bitter opposition that tends to be aroused whenever attempts are made to strengthen the police and to increase their efficiency. It is also of interest that the inspectors of constabulary, who were described as the instruments of tyranny in 1856, have been chosen by the Commission in the present report to be the primary means for carrying out its proposed reforms.

9. Reference need be made to only one more Act. In August, 1918, there was an unprecedented strike by nearly the whole of the London police. After this was settled, the Government, in March, 1919, appointed the Desborough Committee to review *inter alia* the conditions of service and the rates of pay and pensions of all the members of the police forces in Great Britain. The brief Police Act, 1919, that followed the Committee's report is of importance because in section 4 (1) it apparently took a step in the direction of placing final control of the police forces in England and Wales in the hands of the Home Secretary. This section reads:

> "4.—(1) It shall be lawful for the Secretary of State to make regulations as to the government, mutual aid, pay, allowance, pensions, clothing, expenses, and conditions of service of the members of all police forces within England and Wales, and every police authority shall comply with the regulations so made."

10. This section does not, however, give to the Secretary of State as much power as, at first sight, it seems to do. Although he may make regulations

concerning the government of the police officers, this does not mean that he has been given those powers of control, direct or indirect, which he has in relation to the Metropolitan Police. Nor has he full power concerning pay, for a complicated system of negotiation and arbitration may have to be followed before this is settled.

11. The Police Act, 1919, did not, however, solve all the police problems, and since then there have been a number of committees, the most notable of which was the Oaksey Committee in 1948. I believe that these Royal Commissions, Ministerial Committees, and other enquiries will continue indefinitely until the necessary steps are taken to introduce a rational and efficient system of government for the police. Thus, to take one illustration, our Commission in paragraph 13 regrets that the formula by which its recommendations in the Interim Report were arrived at has not been accepted by the Treasury, as it fears that a situation similar to the recent one may recur. It emphasises this when later it says :([9]) " Here it is enough to observe that a system of control which allowed the situation to deteriorate to the extent revealed by our earlier report must itself be called in question." I agree with this.

Traditions and Principles

12. Perhaps the chief obstacle in the search for a practical solution to the police problem is found in " a certain historical sentimentality ", to use Mrs. Hart's happy phrase,([10]) concerning the origin, status, and constitutional importance of the police constable. I believe that much of the consideration of these matters in Chapters III and IV of this report is irrelevant for our purposes, and that some of the conclusions tend to be misleading.

13. It is irrelevant because the Commission does not suggest that there is a distinction in status between the Metropolitan police constable and the police constable who is a member of one of the provincial forces. Therefore if the provincial police forces were brought under the direction of the central authority, as exercised by the Home Secretary, this would leave the status of the provincial constable exactly the same as that of the Metropolitan officer. It follows that if these separate and independent forces were merged in regional police forces not an iota of difference would be made in the status of the police constable, although the uncontrolled authority of the chief constable would, of course, be affected.

14. Nor would such an extension of the Metropolitan Police pattern to the provincial police forces conflict in any way with the conclusions reached by McCardie J. in *Fisher* v. *Oldham Corporation*([11]) and by the Privy Council in *Attorney-General for New South Wales* v. *Perpetual Trustee Co.*,([12]) for in those cases the point at issue was whether a police constable was technically a servant of either the local police authority or the Crown so as to found an action for the loss of his services. In reaching the conclusion that he was an officer of the Crown, as are all sailors, soldiers and airmen, but not a domestic servant, the judges did not hold, as has sometimes been suggested, that he was not subject to the orders of his superior officers. Whatever may have been the situation in regard to parish constables in the eighteenth century, the Metropolitan Police Act, 1829, the Municipal Corporations Act, 1835,

and the County and Borough Police Act, 1856, and the regulations made under their authority make it clear not only that he is subject to orders, but that he can be punished if he refuses to obey them. He is, of course, not bound, or even entitled, to obey an illegal order given by his superior officers, any more than a surgeon would be bound to perform an illegal operation if ordered to do so by the Minister of Health. The suggestion that in some form or other the status of the police constable can be regarded as an argument against placing the provincial police forces under central control can, therefore, find no support either in history or in law.

15. It would be sufficient to stop here if it were not for the general principles which the Commission deduces from the status of the police constable, and which it regards as still valid today.

16. The first principle is that the police constable of the present day is the direct descendant of the parish constable who held an independent office, not subject to superior control. But such a conclusion, which ignores the revolutionary character of the Metropolitan Police Act, 1829, would lead to a situation as chaotic as that which existed at the end of the eighteenth century. As Maitland, the greatest of all constitutional historians, has said:(13) "So late as 1842 a gallant effort was made to put new life into the old constabulary. . . . but this statute seems as obsolete as the laws of Ethelbert. We have been living very fast." It would be unfortunate if in 1962 the ghost of the old constabulary were to return. An attempt has been made, especially by the Association of Chief Police Officers of England and Wales,(14) to claim the honour of having the parish constable as an ancestor, but this ambition seems an odd one as his contemporaries had nothing but evil to speak of him. The Commission,(15) it is true, quotes Wordsworth's phrase concerning the "staid guardian of the public peace", but this probably refers to the justice of the peace, riding his "sober steed", for in those days the magistrate took a personal part in enforcing the law. A more accurate picture can be found in Sir William Blackstone's statement(16) that, "of the extent of which powers, considering what manner of men are for the most part put upon these offices, it is perhaps very well that they are generally kept in ignorance." It is fortunate that the police constable today can claim a more distinguished ancestry, for he finds his origin in the courageous men of 1829.

17. The second principle, on which great emphasis is placed in the report, concerns the local character of the police, but this phrase can be misleading. It is essential that a clear distinction should be drawn between a *local police force* and a *locally controlled police force*. It is only the questions concerning the locally *controlled* police force that are relevant to the regionalisation of the police, because it is obvious that local police forces will always continue to exist, for a police force must be locally stationed. There must be an Oxford branch of the police, just as there is an Oxford branch of the Post Office. Thus the regionalisation of the police forces would not mean that the Oxford branch would be disbanded, but it would mean that the Oxford branch would become part of the larger regional force, and that the chief constable and the other police officers would be subject to the direction of the regional commissioner.

It is true that they could be transferred to some other branch if this were held to be desirable, but it is unlikely that such transfers would be made among the lower ranks, unless there was some special reason, such as promotion or demotion. This is the rule now in the Metropolitan area.

18. There would be no danger that the local associations of any of the police forces would suffer, even if the control were placed in a regional commissioner. It would still be possible for the local government and for other local organisations to make representations, as they do to the chief constable at the present time. Nor is there any reason to think that the loyalty of the police officers would be affected by the transfer of control from the local police authority and the chief constable to the regional commissioner and ultimately to the Home Secretary. There would then be three loyalties—the local, the regional, and the national one —each playing its natural and rational part. I cannot believe that the present loyalty that is said to be owed to the watch committee or to the standing joint committee, on which so much emphasis has been placed, is any stronger than the new ones would be.

19. The only visible change would be that the title of chief constable would probably disappear as soon as the present holders, whose rights would have to be recognised, retired, and the grades now in force in the Metropolitan Police would be introduced. This would be no bad thing because it seems incongruous that the head of a police force with a strength of 150 men should hold the same rank as the head of a force with 2,500 men. It would be odd indeed if a naval officer in charge of a mine sweeper were to hold the same rank as an Admiral of the Fleet.

20. The Commission([17]) refers to the British principle that "the police are merely paid to act on the citizen's behalf", to support the view that the police are essentially local in character. It is difficult, however, to reconcile this principle with the constable's declaration that he "will well and truly serve our Sovereign Lady the Queen in the office of constable". It also seems to conflict with the fact that the constable is a member of a disciplined service, under a duty to obey orders, and that many of his powers are given to him as a constable and not as a citizen. To say that a constable is a citizen in uniform is no more accurate than it would be to say that all citizens are constables in plain clothes.

21. The third principle is that the local forces are administered by a partnership between the central and the local governments.([18]) This tradition, in so far as it exists at all, must be a comparatively modern one, because it was not until the Municipal Corporations Act, 1835, was enacted that modern local government came into being. This so-called partnership is said to follow "a tradition of local policing which is traceable back for many centuries",([19]) but the local policing, as centred in the parish constable, failed completely at the end of the eighteenth century and had to be replaced by the New Police.

22. Nor is the "partnership" in regard to the police of the same nature as that which is found in the relationship between the central and local governments in the fields of education, health and housing, to which the Commission refers,([20]) because in those fields the final power of control rests with the Ministries concerned. In them the relationship is rather

that of principal and agent, for the local government is performing a duty which ultimately is that of the central government. But there is no such relationship at present between the central government and the local police authorities, except that they are joint contributors to the cost of the local police forces.

23. But of even greater importance is the fact that the so-called police partnership does not consist of two "partners" only, but of three—the central government, the local governments and the chief constables. Of these the chief constable is the most important, because the power of the two governments is primarily financial while his is the power of administration. This virtually uncontrolled position of the chief constable is unique. It is as if the chief education officer of a borough were given complete power to appoint, promote and discipline the teachers within his area, and to have final powers of direction concerning the conduct of the schools. Whether a tradition which leads to so unusual a result can be regarded as being of permanent value is open to doubt.

24. The fourth principle is that the police, and especially the chief constable, must perform their duties impartially. This is true of all public servants, and may be said to be one of the foundation stones of any system of democratic government. It is particularly true of the police because they constitute an essential part of the administration of justice. But is such impartiality guaranteed by a provision that the chief constable shall not be answerable to any one for the day-to-day enforcement of the law? It is in the particular cases which arise under such enforcement that partiality may appear. I believe that the primary guarantee of impartiality is that the person who acts should be held responsible, directly and immediately, to his superior officers; if the chain of command ends with him then there is no adequate control.

25. The suggestion that there should be this power of control in the hands of some superior officer does not imply that some chief constables are intentionally unfair or biased, but men sometimes do not recognize their own prejudices, so that a check ought to be placed on their decisions; this is one of the reasons why our judicial system provides for appeals in most instances, even though judges are trained to be impartial. I agree with the Commission that to give control over the chief constable to a body such as a watch committee, which might be influenced by personal, political or religious prejudices, would be to choose a remedy that is worse than the disease, but no such consideration would arise if the control was exercised by a regional commissioner, and, on appeal, by the Home Secretary, who is himself responsible to Parliament. The Commission state[21] that the chief constable

> "is accountable to no one, and subject to no one's orders, for the way in which, for example, he settles his general policies in regard to law enforcement over the area covered by his force, the disposition of his force, the concentration of his resources on any particular type of crime or area, the manner in which he handles political demonstrations or processions and allocates and instructs his men when preventing breaches of the peace arising from industrial disputes, the methods he employs in dealing with an outbreak of violence or of passive

resistance to authority, his policy in enforcing the traffic laws and in dealing with parked vehicles, and so on."

I find it difficult to accept the view that to give such unfettered power to 156 chief constables is in accord with a democratic form of government on which so much emphasis has been placed.

26. The fifth principle[22] is that the authority of the police should rest "on the broad basis of the consent and active co-operation of all law-abiding people", and that "the police of this country have never been recognized, either in law or by tradition, as a force distinct from the general body of citizens." My reading of history differs on this point from that in the report. The pre-1829 period, when it could perhaps be said that the parish constable was being paid merely to perform the duty of the ordinary citizen, was not a Golden Age in which there was respect and general support for the police. It was not until the Metropolitan Police proved that they could maintain law and order that they gained, first the respect, and then the affection of the people. The unarmed police were the inspiration of Peel who realized that an efficient body of men could maintain peace without the cutlasses that the Horse Patrol had carried.[23] The most important factor, therefore, in obtaining the support of the public is to give them confidence that the police are as efficient as possible. Thus the unwarranted criticism frequently advanced today against the police that they are wasting their time enforcing the traffic regulations when they ought to be dealing with serious crimes has undoubtedly done them much harm in the eyes of the public. So has the continued repetition of the insulting term "snooper" when they try to enforce the law. But a more serious, and certainly a more valid, ground of criticism is that the police are no longer as successful in enforcing the criminal law as they were in the past. This is particularly harmful because it is on the reputation for efficiency that the popularity of a police force primarily rests. "They always get their man" is the tribute paid to the Royal Canadian Mounted Police. It is for this reason that it is essential that the police in this country should not rest on their past reputation, but should be reorganized so as to meet the needs of the present day.

27. The sixth principle is a negative one. The Commission[24] has done a notable service by refuting the arguments that a national police force, whether organized on a regional basis or on a unitary one, would be either constitutionally objectionable or politically dangerous. Dicey, in his classic work on *The Law of the Constitution,* demonstrated that British liberty was based on the rule of law and on the supremacy of Parliament; it does not ever seem to have occurred to him that this freedom would be endangered if the separate and independent police forces were placed under central control. It is strange to find that those who most fear the police are the chief constables, for they expressed the view that a national police force would be a danger to liberty.[25] Similarly Sir Frank Newsam,[26] Permanent Under-Secretary, the Home Office, 1948-57, has said: "The point which should be emphasized in this context is that, with the exception of the Metropolitan police force, every police force is under local control, and that there is no danger of the police being used as the servants of the central authority." It is odd to find an officer of the central authority expressing anxiety concerning the danger to liberty that would ensue if

the central authority (the Home Secretary) had the power to give directions to police officers in regard to the enforcement of the law.

28. Although the Commission does not fear that the police, if placed under the direct control of the Government, would be dangerous, it nevertheless holds([27]) that this "would be a notable constitutional change". To extend the Metropolitan police system to the other police forces in the country would not, however, be as radical a constitutional change as was introduced by Peel in 1829 when he abolished the parish constable and created the "New Police". For that matter it is doubtful whether such an extension of the Metropolitan system to the provincial forces could properly be described as a constitutional change at all.

29. It has been suggested that the recent dictatorships on the Continent ought to be a warning against the establishment of a strong, centrally-controlled police force here. I believe that the lesson is the exact opposite. The danger in a democracy does not lie in a central police that is too strong, but in local police forces that are too weak. It was the private gangs of the Fascists and of the Nazis that enabled Mussolini and Hitler to establish their dictatorships when the legitimate police proved impotent.

Local Forces and Efficiency

30. The most important statement in the report is found in paragraph 22 which reads: "If there had been evidence that a system based on a series of local forces was itself in some measure to blame for the inability of the police in the post-war years to halt the rise in crime . . . it would have been our duty to propose to Your Majesty a new system for the policing of this country. We have received no such evidence."

31. This obviously does not mean that the Commission has reached the conclusion that there are no defects at the present time, because in paragraph 19 it finds that the existing system does not adequately (1) achieve the maximum efficiency and the best use of manpower, (2) bring the police to account, and so keep a constitutionally proper check upon mistakes and errors of judgment, and (3) arrange that complaints against the police are dealt with so as to avoid the present measure of dissatisfaction. But these defects, it holds, can be corrected by the recommendations it is making, so that it will not be necessary to alter the present system in the more radical manner suggested by those who favour a number of regional forces on the model of the Metropolitan Police.

32. The Commission places the major emphasis on the problem of maximum efficiency. In considering this it is essential to distinguish between (a) the efficiency of the individual police force, and (b) the efficiency of the police as a whole, in enforcing a national system of law and order. This distinction is an important one, because even though all the component parts of a machine may themselves be efficient, nevertheless the machine, considered as a single unit, may be unable to perform adequately the task for which it has been designed. As one witness said, a horse and a carriage may be kept in excellent condition, but nevertheless they may be too slow in the age of the motor vehicle.

33. In regard to the efficiency of the individual police forces the findings of the Commission itself are of great interest.([28]). These are that forces as small as 200 men tend to suffer a number of disadvantages, and that forces

numbering less than 350 in strength are justifiable only in "special circumstances". There are 58 forces under 200 and 97 under 350 in strength, so that if "special circumstances" has its usual meaning, more than half of the present forces fall short, and some fall far short of maximum efficiency. The disadvantages listed by the Commission are that these forces cannot meet all the demands that may be placed upon them, that the employment of specialists is difficult, that promotion tends to stagnate and it is harder, therefore, to ignore the claims of seniority, that discipline is difficult to enforce impartially and unpleasant in its effects, and that the risk of undesirable pressure being brought to bear on members of the force by local people is greater than in a large force. Nor is it easy to find for such a force a chief constable with all the necessary qualities of a leader. To this list of defects may be added the important one, which is found both in small and in large forces, that once a chief constable is appointed, then no change can be made unless he resigns or is found to be so grossly incompetent as to justify dismissal.

34. In face of this list of defects inherent in a small force the Commission has itself referred to a number of countervailing considerations. The first is that by amalgamation these small forces could be abolished so that only those of the optimum size of 500 or more would remain. This, however, would destroy the principal argument in favour of local forces which is based on their close relationship to the county or borough councils. Once this is gone it would obviously be more rational to plan the police on a regional basis. The second argument is that the loss of efficiency, which is inherent in the present system, is more than counterbalanced by the advantage that is gained by encouraging an interest in local government. Those who adopt this argument are prepared to pay the price of a less efficient police force, but this view is not necessarily a convincing one at a time when the number of crimes is rising at an appalling rate, with its inevitable repercussions on the moral standards of the country. Moreover if the police are to be used to increase the interest in local politics, then local politics will increase its interest in the police. The third argument is that as most crimes (more than 80 per cent.) are committed by local people, it is an advantage that the police should be controlled by an independent local body which understands the local conditions. The truth of the statement that most crimes are local depends on what is meant by "local", and also on whether the word "crime" covers minor infractions of the law. Lord Geddes, Sir George Turner and Mr. Hetherington have pointed out[29] that in 1960 there were 743,713 serious crimes (an increase of 225 per cent. over 1938), but that only 44·4 per cent. were detected. It is therefore impossible to say whether 55·6 per cent. of these crimes were committed by local people or not. The evidence seems to show that many of the serious crimes are of a non-local character. It is doubtful, therefore, whether the knowledge which members of a watch committee may have concerning local conditions will add greatly to the efficiency of the police in dealing with these crimes. More information concerning local crime can probably be obtained from public-house keepers than from the members of a watch committee, but it does not follow that the former should become a police authority.

35. In regard to the efficiency of the police system as a whole the Commission recognises that under modern conditions a certain amount of

joint action on the part of various police forces is essential. This is most obvious in urban areas, but it is also true in less populous ones. The emphasis on crime squads and on traffic control are clear examples. If experience in other fields is any guide, it seems to be self-evident that such joint action can be more effectively achieved under a centralized control than under existing conditions, where the concurrence of the chief constables and of the local police authorities must be obtained. The Commission expresses the view that[30] "British experience in many fields of administration has shown that more can generally be achieved in the long run by persuasion than by compulsion." This may be true in those instances where the persuasion is exerted by someone who also has the power to direct, but persuasion by itself is not always effective. An empty velvet glove is inclined to be flabby. A system of "elaborate checks and counter-checks with the minimum of direction and command" to which the Commission refers[31] is hardly a formula for successful administration.

36. It is of interest that the Commission has found that in regard to the large urban areas, known as conurbations, there is a case for considering whether each conurbation should be policed by a single police force.[32] It recognises that there are cogent arguments in favour of such a general amalgamation. There is the need to keep a routine check on criminals who live in one neighbourhood and operate in another; there is also the need to improve traffic control and secure its uniform enforcement. In a continuous urban area command is preferable to co-ordination as it can secure more efficient use of resources and greater flexibility. The same arguments apply, although with perhaps less obvious force, to non-urban areas, especially where there is no natural division between them. There is, therefore, strong evidence that a regional system would increase the efficiency of the police as a whole.

37. Finally, there is a third kind of efficiency which can be attained only by the exercise of increased Control by the Home Office. The Commission has set out[33] a formidable list of matters for which the Home Secretary should be responsible, viz. effective execution by police authorities of their duties, efficiency of each separate police force, securing collaboration between groups of forces, and the provision of ancillary services, but it has not stated how he is to carry out these duties. At present the first three can be made effective only by a threat to withdraw the police grant, but this is such an indirect and clumsy method that it has rarely been threatened, and even more rarely used. The fourth matter which covers the provision of ancillary services has been more successfully carried out as these are usually under the direct control of the Home Office.

38. The extent to which the Home Office will attempt to direct the local police authorities and the chief constables depends to a considerable extent on its interpretation of its own functions. On this point Sir Frank Newsam has written:[34]

> "It [the Home Office] takes the greatest pains not to attempt to derogate from the local administrative control of the force or from the personal responsibility of its members", and "the Home Office owes any effective authority it possesses in its dealings with the police themselves and with police authorities less to the ultimate sanction of the law than to its experience, patiently acquired and recorded over many years, of police problems."

This suggests that as long as the present system continues to be substantially unchanged, there is not much likelihood of strong central guidance. On the other hand, if a regional system were adopted, then such guidance would come from a Home Office confident in the knowledge that its directions would be given full effect, and that it was its duty to take the necessary action.

The Commission's Recommendations

39. In Chapter X the Commission gives a summary of its conclusions and recommendations. I shall limit my comments to the more important recommendations because a consideration of these will help to show whether they will solve the defects which the Commission itself recognises as existing at the present time.

40. Recommendation 12, which is the most important one in the report, provides that legal responsibility for the efficient policing of an area be transferred from the police authorities to the Secretaries of State. This must be read with the complementary recommendation 40 which provides that the Home Secretary and the Secretary of State for Scotland be made statutorily responsible for the efficiency of the police in England and Wales and in Scotland respectively. These two recommendations would seem to introduce a fundamental change in the present system, giving to the Secretaries full authority in regard to efficient policing and general control. But it is most doubtful whether these general provisions would have any practical effect; as stated by the Commission they seem to be little more than the expression of a pious hope.

41. What powers would be transferred by recommendation 12? The police authorities will continue to be responsible for the proper provision of manpower, equipment and buildings; failure to perform these duties on the part of the authorities will, as the Commission points out,(35) endanger payment of the police grant, but this has always been true in the past. Recommendation 12 suggests that there must be other duties in regard to efficient policing which are being transferred to the Home Secretary, but none are given in the report. In the case of the watch committees the power to appoint, promote and discipline the lower ranks will be transferred to the chief constables so that responsibility for these powers will clearly not be transferred to the Secretary of State. It is true that the Association of Municipal Corporations in its evidence claimed to have the right to give orders in regard to general policy to the chief constables,(36) but the latter strenuously denied that such a power exists,(37) and on this point they seem to be clearly right. The police authorities also have been given by statute the power to make certain regulations, but this has been superseded in large part by the provisions of the 1919 Act giving a similar power to the Secretary of State. The police authorities therefore seem to have few powers that can be transferred to the Home Secretary.

42. The complementary recommendation 40 apparently gives to the Home Secretary all the powers that would be his if the police forces were under his central direction, as it suggests that he could issue any orders and directions necessary to secure the efficiency of the police. A provision leading to such a conclusion would undoubtedly have been a reasonable one, as it would be futile to make the Home Secretary responsible

unless he could take adequate steps to carry out this duty, but the report carries no recommendation on this point. As Sir Ivor Jennings has pointed out,[38] "general language has to be understood in the context of the specific powers granted by legislation." This all-important point can best be clarified if we compare the provision in this report in regard to the powers to be given to the Home Secretary with the provision of the Education Act, 1944, to which the Commission refers as an analogy. The latter begins by giving the Minister of Education general responsibility to provide education in England and Wales, but it then provides that he shall secure this by means of the "local authorities, under his control and direction". On the other hand, the Home Secretary is to be given no such powers of control and direction over the local authorities nor over the chief constables. The Minister of Education is also given specific power by section 68 to give such orders as appear to him to be expedient to any local education authority that has acted or is proposing to act unreasonably, but no such power would be conferred on the Home Secretary by recommendation 40. Recommendation 12 and recommendation 40 are, therefore, nothing more than statements of policy; between them they will not remedy a single defect.

43. In recommendation 14 the Commission provides that "the principle of sharing the cost of the police equally between the rates and the Exchequer be maintained". It is not clear whether this recommendation means that the cost of the police must continue to be met by the existing police authorities. This places a special burden on the less prosperous areas, which may be most in need of an increased police force. I believe that the system of sharing costs, if it is to continue, will work in a more satisfactory manner if the sharing is between a region and the Exchequer.

44. In recommendation 22 the Commission recommends that improved arrangements be made to enable a police authority to retire a chief constable in whom it has lost confidence, and recommendation 60 provides that the Home Secretary may request a police authority to retire its chief constable on the ground of inefficiency. These recommendations are of the greatest interest, because they emphasise the point of view, apparently held by the Commission, that to secure efficiency in a police force the essential power is the power to dismiss the chief constable or to threaten him with dismissal so that he will resign. In spite of the time and effort that have been devoted to the precise formulation of these recommendations, I do not believe that they will have any important influence. In the first place there must be exceedingly few chief constables who are so patently inefficient as to justify dismissal. There is a fundamental difference, as has been said, between a chief constable who is inefficient and one who is not as efficient as he ought to be. The essential thing is to plan a system whereby, through proper management, control and transfer, the chief officers of the various police forces can be brought under such direction as will ensure that they are fully doing the work for which they are best qualified. In the second place the step of dismissal is so extreme that it will be taken only with the greatest reluctance. The emphasis placed in the report on the power to enforce dismissal is, I believe, evidence of the weakness of the present system, because no private organisation could function efficiently if the only method of control lay in a threat of dismissal.

45. In contrast to this, far greater efficiency could be attained under a regional system if the chief constables, especially of the smaller forces, were responsible to and under the direction of a regional commissioner of experience and wisdom. It would also be of great advantage if chief officers could be transferred from one force to another when this became desirable. A man who remains in the same force for too many years may become overly rigid in his ideas and lose his interest and enthusiasm. He may also become too closely associated on terms of friendship with those who ought to be kept at a distance. It is also possible that a man who is appointed to a post which entails much individual responsibility may find that he can do better work if he can rely on the directions of a superior officer. None of these things can be done under the present system because there is no adequate method of control; all of them would follow as a matter of course if the police force were administered on a regional basis.

46. Recommendation 24 is of particular interest for it provides that the powers of watch committees in relation to the appointment, promotion and discipline of subordinate ranks should be transferred to chief constables. In so far as this removes these powers from the watch committees it is to be welcomed, because, as the Commission points out,[39] quoting the Oaksey Committee, such "an elected body [is] subject inevitably to local pressures and prejudices." Such a conclusion is hardly a vote of confidence in the watch committees whose relationship, in a position of control, with the local police forces the Commission considers to be of such paramount importance.

47. The second part of this recommendation, vesting these powers in the chief constable, is less welcome, because there is no guarantee that he also will not be subject to such pressure and prejudice. To guard against such an accusation he will tend to make promotions solely on the ground of seniority. No such difficulties could arise in a regional force with adequate appointment, promotion, and disciplinary boards.

48. Recommendation 28 provides that police authorities be made liable for the wrongful acts of police officers. This is a long overdue reform, but it may cause financial difficulty to a small police authority if the damages and costs awarded in a particular case are heavy ones. No such difficulty would arise in regard to a regional police.

49. Recommendation 30 which recommends that standing joint committees should submit estimates for the approval of county councils may be politically desirable, but it cannot add to the efficiency of the police. The proposed change will inevitably cause delay as one more body will have to debate how much ought to be spent on the police, and it will almost certainly bring a reduction in some instances in the amount allotted to the police, as the various county council committees will compete in the allocation of the available money.

50. Recommendations 31 to 33 concern changes in the constitution of police authorities in England and Wales. This is a matter of far greater interest to the members of those authorities than it is to the general public, especially as all the powers of these authorities, other than the financial ones and the powers of appointment, discipline and retirement of the

senior officers, will hereafter be transferred either to the chief constables or to the Home Secretary. It is doubtful whether the watch committees will welcome the provision in regard to one-third of co-opted justices, as it suggests that under the present system the committees are not as expert or as unprejudiced as they might be. It is strange that this recommendation has had to wait until the time when a material diminution in the powers of the watch committees is being recommended.(40) Reform in matters relating to the police seem to move exceedingly slowly.

51. Recommendation 43 concerns the creation of a post of chief inspector of constabulary for Great Britain, to "be filled without delay". The 1945 Police Act provided for separate posts for England and Wales and for Scotland. This matter has hitherto been regarded as of such doubtful importance that no implementation has taken place. The present emphasis on the post is due to the provision in recommendation 44 that the chief inspector shall have general direction of a central unit responsible for planning and research. It is doubtful, however, whether the chief inspector can be expected to fill such a rôle unless the character of the post is completely altered. The essential need at the present time is to establish a body which can, at the highest level, plan and direct the war against crime. This is a task which differs both in scope and in nature from the important, but more limited, duties of technical inspection.

52. Recommendation 45 provides that the number of inspectors be increased from five to eight in England and Wales, and that a second inspector be appointed in Scotland. Each inspector is to be given a staff officer, and adequate clerical assistance. That such a recommendation should be necessary after more than a century illustrates the extraordinary parsimony that has been shown hitherto in regard to the police.(41) The total sum, covering all salaries and expenses, spent in 1961 on the inspectorate, which has been described as "the eyes and ears" of the Home Office, was £42,000. These facts give force to the recommendation made by the Police Federation(42) that the system of inspection should be radically improved. This cannot be done solely by the appointment of five additional inspectors. The Commission emphasises(43) that no powers of direction are to be given to the inspectors so that the only result of the proposed change in the present position will be that the inspectors will be able to do their work more thoroughly.

53. Recommendation 52 recommends that power should be given the Home Secretary to secure co-ordination between police forces. After a proper inquiry, a scheme designating the service and the particular forces to be co-ordinated will be devised and laid before Parliament. A relevant precedent, suggested by the Commission, is the existing legislation with regard to compulsory amalgamation. As the latter has proved almost completely ineffectual this precedent is hardly an encouraging one.

54. Recommendations 56 to 58 deal with the problem of these amalgamations. The Commission recommends that an expert working party, whose enquiries would be informal, should review the police areas and report privately to the Secretary of State. Such informal, secret procedure must be almost unique. It would then be necessary for the Secretary of

State, after reviewing these confidential documents, to publish proposals in regard to the amalgamation between existing forces. This would be followed by a public local enquiry in regard to each proposed amalgamation to determine whether such amalgamation should be ordered. The likelihood of such a hearing resulting in an amalgamation must be slight indeed. In every case it would be possible for those opposing the amalgamation to cite the Commission's own statement[44] that "the association of a single force with a single local authority is of real value, whereas the combination of local authorities for police purposes is inherently a source of weakness." On the other hand the Commission has said:[45] "Criminals operate across local government boundaries. Moreover, as the chief constable is not, like most chief officers, accountable for all his actions to his authority there is not the same need for an absolute correlation between a single police force and a single local authority. Association is the keynote, rather than control." This reference to the distinction between local association and local control is an important one,[46] because here the Commission recognises that the association of a police force with the place where it is located must inevitably continue even though the control has been shifted. In view of these various statements, which it is not easy to reconcile, it cannot be said that the report gives any clear guidance on the subject of amalgamations.

55. In the Police Act, 1946, which abolished all but two of the non-county borough forces, provision was made both for voluntary and for compulsory schemes of amalgamation for county and county borough forces in the interests of efficiency. In England and Wales there were four amalgamations in 1947. These were Cornwall (382) with Scilly (no fixed establishment); Hants (782) and Isle of Wight (79); City of Peterborough (64) and Liberty of Peterborough (10); Kent (815) and Canterbury (40). In 1948 three Mid-Wales forces were amalgamated in a single force of 134. In 1949 Cheshire (1040) and Chester (71) were amalgamated. In 1950 three more Welsh forces were amalgamated in a single force of 292. In 1951 Leicestershire (356) and Rutland (30); and in 1958 Carmarthen (235) and Cardigan (75) completed the list. Since then there have been no further amalgamations. I do not think that this list is an impressive one.

56. Recommendation 59 recommends some minor improvements in the method of selection of a chief constable by the local police authority. Such a selection by the local authority has been defended on the ground that the chief constable is performing a local function in enforcing the law, even though he is not under the control of the authority. As all authority in regard to the appointment, discipline and promotion of the lower ranks is to be withdrawn from the watch committees because of their lack of expert knowledge and the danger of prejudice, it is not clear why the appointment of the most important officer of all should be left in the hands of the local police authorities, even if subject to approval by the Home Secretary. Appointment by the regional commissioner assisted by a regional board of advisers would seem to be a more satisfactory method.

57. On the subject of recruitment the Commission[47] expresses its extreme concern that the police "should for years have been failing to

recruit anything like their proper share of able and well educated young men". This, it finds, is due primarily to the fact that the early prospects are not encouraging. It therefore recommends in recommendation 63 that the minimum qualifying period for promotion to sergeant be reduced from five to three years. This is a useful step, but it may not be very effective by itself. In many professions, such as the law and medicine, it is the ultimate prospect that appeals to the ablest men; there is, therefore, much to be said for the view expressed by some of the witnesses([48]) that a national police service would offer a more satisfactory career as the prospects of advancement would be increased by the size of the force, and the creation of a number of high-ranking posts of regional commissioner would provide an important attraction. To this may be added the realisation that selection for promotion would be more rapid for the able man, and would be uninfluenced by favouritism or by any considerations other than merit.

58. Recommendation 69 provides that the Home Secretary shall be empowered to call for reports from chief constables. A similar power is to be given to police authorities by recommendation 15, subject to the approval of the Home Secretary. These reports will, however, be of little practical value unless the police authorities or the Home Secretary are given the power to do something about them, as is given to the Minister of Education by section 68 of the Education Act, 1944. This novel method of government through reports, without power to do anything, is a new development in the science of politics.

59. In recommendations 84, 85 and 86 the enforcement of the traffic laws is dealt with very briefly. This has become a major police problem at the present time; its magnitude becomes apparent when it is realised that there are now 10,000,000 licensed vehicles on the roads, that nearly 7,000 people are killed each year in road accidents, and that in an emergency, such as a strike on the underground, the traffic of a great city can be brought to a complete halt. These problems ought to be of primary concern to the police, but they have in large part become the responsibility of the Ministry of Transport, because there is no adequate police organisation that can deal with them. The national traffic reports on the B.B.C. during a bank holiday, or at other times when there is congestion on the roads, are issued by the Automobile Association, a private body, and not by the police, which would be incapable of doing so as there is no central organisation. Until there is a centrally controlled police which can speak with authority, there will be no national policy, and the national trunk roads will continue to be policed by local police forces. Five separate police authorities have to co-operate, with some difficulty, in providing the men and equipment made necessary by the 60 miles of the M.1. The five chief constables have succeeded in co-ordinating the activities of their traffic squads, but some of the police authorities have been reluctant to purchase the extra-fast cars required for this type of police control.

60. Two of the recommendations made in the report illustrate the difficulties of the present position. Recommendation 84 suggests that there should be a review of the highway law which is said to give rise to confusion, but no reference is made to the fact that a Road Traffic Bill is now before Parliament. We received no evidence that any steps to suggest

simplification in the law had been taken by anyone connected with the police. Recommendation 85 provides that the chief officers of police should formulate uniform policies in regard to the enforcement of the traffic laws, but the likelihood that 156 chief constables, who may be subject to various conflicting local pressures, will agree on a uniform policy must be remote. Until centralized control has been established, this major cause of criticism on the part of the motoring public will remain.

61. In recommendation 86 the Commission opposes the suggestion that a separate corps of traffic police should be created. I doubt whether it is wise to express so categorical an opinion on a professional matter without more evidence than was available to the Commission. Such a corps has been established in New Zealand, and has proved notably successful there. It would undoubtedly be easier to recruit for such a corps than it is for the ordinary police, as the interests of many young men today are largely centred on anything relating to motor vehicles. Every possible step should be taken to increase the number of the traffic police because, as the report points out,([49]) with more traffic patrols the number of road accidents could be substantially reduced. In the cities more police on point duty would help to save lives; in London last year only one person was killed on a police-controlled crossing. Moreover in such a corps it would not be necessary to apply the present qualifications regarding height, which vary from 5 ft. 8 ins. to 5 ft. 11 ins. in the different forces. This emphasises the fact that at a time when there is a serious shortage of recruits for the police service more consideration ought to be given to the question whether such rigid standards should be applied to all officers, whatever their duties. The average height of men in this country is 5 ft. 7½ in., so that probably more than half are at present ineligible for admission to the police.

62. In recommendations 90 to 111 the Commission considers the method of dealing with complaints against the police, which is a subject of major importance, not because of the number of complaints, which are comparatively few, but because it may affect the good relations between the police and the public. The Commission recognizes([50]) that there is a measure of dissatisfaction with the present system, and it therefore recommends certain amendments to it. Recommendation 96, which is the most important of these, provides that complaints books must be kept at divisional headquarters, so that the inspectors of constabulary can satisfy themselves that complaints have been properly dealt with. It is doubtful, however, whether the knowledge that the procedure followed in a certain number of other complaints has been examined by the inspector will satisfy an unsuccessful complainant that his own particular case has been adequately considered. Of greater effect is recommendation 104, which provides that a complainant should be entitled to attend the disciplinary hearing and to put questions to the accused police officer. This would probably satisfy almost all legitimate criticism if it were not for the fact that disciplinary hearings are ordered in only 5 per cent. of all complaints. It is, however, in regard to those complaints that are either dismissed or are dealt with without a hearing that the feeling of injustice may arise. This feeling is, I believe, unfair to the chief constables, because in all the cases that I have examined they have leaned backwards to see that justice is done to the complainants.

63. Unfortunately, even though the chief constable may be scrupulously fair, this will not answer the major criticism against the present system; which is that it violates the basic principle of justice that no man shall be a judge in his own cause. It is inevitable that some complainants will feel that it is in the interest of the chief constable that as few as possible of his police officers should be found guilty of wrongdoing, and that this has influenced his judgement. The fact that the interest is indirect does not affect the point for, as Lord Campbell said in *Dimes* v. *Grand Junction Canal Co.*(51):

> "It is of the last importance that the maxim that no man is to be a judge in his own cause should be held sacred. And that is not to be confined to a cause in which he is a party, but applies to a cause in which he has an interest."

I do not believe that it would be difficult to solve this problem if a legal department, staffed by lawyers, were attached to each regional force. Whenever a complaint was made, the complainant would be asked whether he wished it to be dealt with by the chief constable, and in most instances he would probably agree to this so as to save trouble. If, however, he refused, then a lawyer member of the department would be placed in charge of the preliminary investigation so as to determine whether there should be a disciplinary hearing. If it was decided, with the approval of the head of the legal department, that no further steps should be taken, the case would end there, but if the decision was that a charge should be brought, then arrangements would be made to have it heard by a board of senior police officers, assisted by a legal adviser. It is noteworthy that when Sir Robert Peel appointed the original Commissioners of the Metropolitan Police, he insisted that one should be an army officer, and the other a trained lawyer so as to give confidence to the public that the police were acting under the law.

64. The suggestion that a Commissioner of Rights should be appointed is an attractive one, but it is doubtful whether it would solve the present problem. A complainant is concerned with having a hearing that he regards as fair; it will be little comfort to him if a Commissioner of Rights finds, after the hearing has been concluded, that he has not been dealt with justly, especially if there is nothing that can be done about it.

65. Two final points concerning the recommendations are of importance. The first relates to questions in Parliament. Although one of the major problems which the Commission was asked to consider concerned the accountability of the police, no precise recommendation has been made defining the kind of question that a Member of Parliament would be entitled to ask the Home Secretary in regard to the conduct of the provincial police. This is of the greatest importance because it is by means of questions that Members of Parliament fulfil their essential constitutional function in protecting the rights of the individual. At first sight it might seem that recommendation 40, which makes the Home Secretary responsible for the efficiency of the police, and recommendation 69, which enables him to call on all chief constables for reports on matters connected with policing, will enable questions to be asked on all police matters, but

this is extremely doubtful having regard to paragraph 230 of the report which reads in part as follows:

> "It would be inappropriate to assign to the Secretaries of State complete responsibility for the police service: it is implicit in our rejection of any arrangement under which the police should be placed under the control of the Government that Ministers cannot in our view be responsible for the acts of individual policemen or for the day to day enforcement of the law."

But if the Minister cannot be held responsible for the acts of individual policemen or for the day to day enforcement of the law, then it would seem that no questions concerning these could be asked. Thus if the police outside the Metropolitan area were to abuse their power of arrest in an individual case, or their power of search, or were to use unwarranted force in dealing with a demonstration, no questions could be asked in Parliament. Such cases are, however, the stuff of which the history of British freedom has been made.

66. The second point concerns the evidence heard by the Commission. Throughout the Commission's report particular weight has been placed on the views expressed by those who are concerned with the administration of the present law—the police authorities, the chief constables, and the Home Office. These undoubtedly are of great importance, but it is only fair to recognise that if a regional system, under the direction of the Home Secretary, were adopted, then the police authorities would cease to exist in their present form, the chief constables would be subject to control by the regional commissioners, and the Police Division of the Home Office would have to play a far more active part than it does at present, so that these witnesses cannot be regarded as being entirely neutral. Today the Police Division has only three assistant secretaries and six principals as compared with the recently created Civil Defence Department which has five assistant secretaries and seven principals. It is not surprising, therefore, that the Home Office should be hesitant before accepting a new police system which would add so considerably to its duties. It has sometimes been suggested that the civil service as a body is avid for power, but it is more usual to find that it shows considerable caution before undertaking new responsibilities.

67. The evidence in favour of some material change in the present system came from, among others, a committee of the Inns of Court Conservative and Unionist Society, two of whose members have since been appointed High Court judges; three, including the chairman, are members of Parliament; and seven were Queen's Counsel. The Law Society and the Police Federation also expressed dissatisfaction with the present system, although they were not in agreement concerning all the steps that should be taken. The evidence submitted by Colonel T. E. St. Johnston, Chief Constable of Lancashire, was of particular interest.

68. The criticism here advanced against the recommendations made by the Commission can be summed up briefly. This is that they do not achieve the three main goals that the Commission set for itself. The first was to establish a system of control over the police which would achieve the maximum efficiency. The report purports to create such control by providing

that the Home Secretary "be made statutorily responsible for the efficiency of the police in England and Wales," but, whatever this ambiguous phrase may mean, he is given no new powers by which to fulfil this responsibility, except the right to call for reports from the chief constables, a right which his inspectors probably now have. This fails to recognise that responsibility is meaningless if it is divorced from the power to direct. The second goal was to make the provincial police forces "constitutionally accountable", which must mean accountable to Parliament. This consequence cannot, however, follow from the recommendations in the report, because the Home Secretary is not to be responsible for the day to day enforcement of the law. The third goal concerned effective arrangements for dealing with complaints against the police. An arrangement cannot, however, be considered effective if a substantial number of complainants believe that the system violates the basic principle that a man should not be a judge in his own cause. The Amendments suggested in the report do not meet this point.

A Plan for a Royal English and Welsh Police, Administered Regionally, and for a Royal Scottish Police

69. There is no need to apologize for recommending the establishment of a regionally administered police force under the direction of the Home Secretary, although it has been suggested that such a system would be unconstitutional and un-English. The police constable is an officer of the Crown; he enforces a national law; and his rights, powers and duties, when not statutory, come from the national common law. As Sir Ivor Jennings has said: ([52]) "It is only by an historical accident that the control of the police is vested in local authorities. Clearly, the preservation of order is the fundamental duty—if we may so express it—of any state. According to the principles of public administration the police should be under the control of the Central Government." Moreover, in a number of important regards such as pay, conditions of service, and rules of discipline, there already is centralized control. The police officers, under the rank of superintendent, are themselves organized in the Police Federations on a national and not on a local basis. Therefore the recommendation that the final steps should be taken in the interests of efficiency and good government cannot be regarded as a radical or revolutionary proposal.

(1) There should be a single police force for England and Wales, to be entitled "The Royal English and Welsh Police". This should comprise all public police forces, other than that of the City of London which might be kept separate because its functions are unlike those of any other police force.

There ought to be a separate Royal Scottish Police as this would probably accord with the wishes of the Scottish people. On practical grounds such a separation would be justified as there is a marked difference between the English and the Scottish legal systems, especially in regard to the criminal law and its administration. It would also be convenient that all questions relating to the Scottish police should be answered in Parliament by the Secretary of State for Scotland.

(2) The Home Secretary would be responsible to Parliament for the proper maintenance and administration of the police force in England

and Wales. He must therefore be given the ultimate control in regard to all police matters, as there can be no responsibility without the power to control and direct.

The Home Secretary would answer all questions relating to the police. No distinction should be made between questions relating to general policy and those relating to day to day law enforcement. This is essential because English liberty has been created, in large part, by the decision of particular cases. and not by the statement of general principles in formal Declarations.

(3) There should be a National Police Council whose functions it would be to advise the Home Secretary in regard to all police matters, and to be responsible for all necessary research and planning. The members of the Council should be professional police officers of various ranks, civil servants, and lay experts in various subjects, the two latter being appointed by the Home Secretary.

(4) The administration of the police should be divided into regions, which ought not to exceed fifteen in number. This would avoid the over-centralization that might develop if the ordinary administration were a unitary one located in Whitehall.

Each region would be under the orders of a regional commissioner, appointed by the Home Secretary after consultation with the regional council, who would be responsible for the administration of the police in his region, subject to the direction of the Home Secretary in regard to any matters in which the Secretary wished to act. It would in practice be only on special occasions that the Home Secretary would take any action in regard to the ordinary administration of the regional police forces. There is a radical distinction between the power of control and the exercise of that power. The existence of the former often makes the latter unnecessary.

(5) The regional commissioner would be responsible for the direction and discipline of the force under his command, as well as for the appointment of all police officers under the rank of superintendent, for their promotion, and their assignment to particular posts. To carry out these duties he would appoint a number of committees or boards, who would advise him in regard to the exercise of these powers, but the ultimate decision would be his.

(6) In each region there would be a regional police council constituted by representatives of the county councils, the county borough councils, and a number of members appointed by the Home Secretary.

(7) The primary function of the regional council would be to consider the annual budget prepared by the regional commissioner. If the regional council agreed with his recommendations the budget would be submitted to the Home Secretary for his approval and implementation, as in the case of the Metropolitan Police. If there were a disagreement between the regional commissioner and the regional council in regard to any matter this would be called to the attention of the Home Secretary for his final decision.

(8) The regional council would consider all recommendations to be made to the Home Secretary by the regional commissioner for the appointment or promotion of senior officers above the rank of inspector. If the

regional council did not approve of the recommendation made by the regional commissioner this would be called to the attention of the Home Secretary before he made an appointment.

(9) The regional council would meet whenever necessary, but not less than six times a year. At such meetings it would consider any report made to it by the regional commissioner, and it would be empowered to ask for further reports in regard to any matter arising out of the administration of the police. It would not, however, have the power to give any orders to the regional commissioner, but if it was of the opinion that such an order should be issued, then it would make the necessary recommendation to the Home Secretary.

(10) In each regional force there would be a separate legal department, staffed by barristers or solicitors. They would be appointed by, and responsible to, the Home Secretary [or the Lord Chancellor].

The legal department would be responsible for the conduct of all prosecutions brought by the police, except for the routine minor ones, which could be conducted without difficulty by a police officer.

Any complaint against a police officer would, at the request of the complainant, be referred to the legal department. If it decided that there was no substance in the complaint, the complainant would be so advised. If it decided that there was a *prima facie* case for a disciplinary hearing, the department would be responsible for the preparation of the charge, and for the conduct of the case before a Disciplinary Board.

(11) The Metropolitan Police should be incorporated as a part of the single police force, and be administered as one or more of the regional police forces. It would therefore become subject to inspection by one of the Inspectors of Constabulary, as are the other regional forces. A regional council, similar to the other regional councils, should be established so that the administration of the Metropolitan Police should not be left entirely in professional hands.

Conclusion

I have not considered the question whether Parliament, or the people of this country, would at the present time be prepared to vote in favour of a national police force, administered on regional lines. That is a political matter on which it is not my duty to express an opinion, even if I were qualified by experience to do so. It is my duty to recommend those measures which seem to me to be necessary if the police force is to be made efficient in the circumstances of the present day, and that I have done here. I believe that the history of the Metropolitan Police and of the inspectors of constabulary illustrates how uncertain is an argument based on a prophecy of what the public will or will not accept.

A. L. GOODHART.

24th May, 1962.

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NOTES

[1] I have not referred to certain differences between the English and the Scottish police systems as these are not germane to my argument. A reference to the Home Secretary is intended to include the Secretary of State for Scotland.

[2] C. Reith, *Short History of the British Police*, 1948, p. 3.

[3] (1765) 19 St. Tr. 1030. This case established that the defendants (who were King's messengers) could not plead a general search warrant issued by the Secretary of State, as a defence to an action of trespass.

[4] Norman Gash, *Mr. Secretary Peel*, 1961, p. 313.

[5] C. Reith, *The Police Idea*, 1938, p. 115.

[6] Section 4 of the Act (10 Geo. IV, c. 44) provides that the new police shall " have all such Powers, Authorities, Privileges, and Advantages, and be liable to all such Duties and Responsibilities, as a Constable duly appointed now has or hereafter may have within his Constablewick by virtue of the Common Law of this Realm, or of any Statutes made or to be made, and shall obey all such lawful Commands as they may from Time to Time receive from any of the said Justices for conducting themselves in the Execution of their Office ".

[7] *The Home Office*, 1925, p. 94. Sir Edward Troup was Permanent Under-Secretary of State in the Home Office, 1908–1922.

[8] *The British Police*, 1951, p. 33.

[9] para. 132.

[10] op. cit. supra, p. V.

[11] [1930] 2 K.B. 364.

[12] [1955] A.C. 457.

[13] *Justice and Police*, 1885, pp. 106–108. Maitland traced the origin of the modern police back to the Dublin Police Act, 1786, of the Irish Parliament, which led to the establishment of the Royal Irish Constabulary. He said: " What was called the Middlesex Justice Bill of 1792 was a copy in faint colours of the Dublin measure ".

[14] Evidence, p. 884.

[15] para. 57.

[16] *Commentaries*, Bk. I. ch. 9, IV.

[17] para. 136.

[18] para. 140.

[19] para. 142.

[20] ibid.

[21] para. 89.

[22] para. 20.

[23] op. cit. n. 4, p. 489.

[24] paras. 135–139.

[25] Evidence, p. 883.

[26] *The Home Office*, 1954, p. 31.

[27] para. 138.

[28] paras. 279, 280.

[29] p. 155, para. 9.

[30] para. 114.

[31] para. 111.

[32] para. 282.

[33] para. 231.

[34] op. cit. n. 26, pp. 40, 41.

[35] para. 159.

[36] Evidence, p. 631.

[37] Evidence, p. 849.

[38] *Principles of Local Government Law*, 4th ed., 1960, p. 217.

[39] para. 187.

[40] Recommendations 12 and 24.

[41] It may be of interest to state the approximate total expenditure (including pensions) made on the police in recent years in England and Wales:

	£
1951–52	56,000,000
1955–56	74,000,000
1958–59	96,000,000
1961–62	128,000,000

These figures, when compared with the expenditure made on other services, do not suggest that the police have been treated in a liberal manner. This is inevitable when control is divided among a number of different bodies, each anxious not to spend more than is necessary. On the other hand, under a centralized system the police requirements of the country as a whole would be the dominant consideration.

[42] Evidence, p. 1027.

[43] para. 251.

[44] para. 287.

[45] para. 277.

[46] supra, paras. 17 and 18.

[47] para. 312.

[48] para. 124

[49] para. 392.

[50] para. 20.

[51] (1852) 3 H.L. Cas. 759, 793.

[52] op. cit. n. 38, p. 207.

APPENDIX I

LIST OF WITNESSES WHO GAVE EVIDENCE IN PUBLIC AND IN PRIVATE

Central Government

Home Office	Sir Charles C. Cunningham, K.C.B., K.B.E., C.V.O. Mr. P. Allen, C.B. Mr. K. A. L. Parker, C.B. Mr. J. K. T. Jones, C.B.E.
Scottish Home Department	Sir John Anderson, K.B.E., C.B. Mr. W. K. Fraser
H.M. Inspectors of Constabulary ...	Sir William Johnson, C.M.G., C.B.E. Mr. F. T. Tarry, C.B.E. Mr. F. J. Armstrong, C.B.E. Sir Charles Martin, C.B.E. Mr. T. Renfrew, C.B.E.
Lord Advocate's Department	Mr. A. C. B. Reid
Central Office of Information (Social Survey Division)	Mr. L. Moss Miss R. Morton-Williams

Police Representatives and Associations

Association of Chief Police Officers of England and Wales	Mr. S. Lawrence, C.B.E. Mr. R. P. Wilson, O.B.E. Mr. E. J. Dodd, C.B.E. Mr. N. W. Goodchild, C.B.E. Mr. A. F. Wilcox, O.B.E. Mr. B. N. Bebbington, O.B.E.
Superintendents' Association of England and Wales	Superintendent C. E. Vernon, M.B.E. Superintendent H. May Chief Superintendent B. F. Paull Chief Superintendent H. D. Perry
Police Federation of England and Wales	Sergeant C. White Constable R. Webb Constable A. C. Evans Inspector A. Bleach, B.E.M. Inspector J. Needham Constable A. Judge Mr. J. Callaghan, M.P.
Chief Constables' (Scotland) Association	Mr. J. A. Robertson, O.B.E. Mr. J. R. Inch, C.B.E. Mr. D. Gray Mr. J. Dingwall Mr. W. Merrilees, O.B.E. Mr. C. A. McIntosh
Association of Scottish Police Superintendents	Superintendent G. McMaster Chief Superintendent W. Ratcliffe
Scottish Police Federation	Sergeant N. Clark Constable R. McClement Constable J. Duncan Inspector P. Barclay Constable R. Russell Policewoman Sergeant Ruth Stewart

Commissioner of Police of the Metropolis	Sir Joseph Simpson, K.B.E. Sir Alexander Robertson, D.C.M. Mr. D. E. Webb, O.B.E. Lt.-Colonel R. R. M. Bacon Mr. R. L. Jackson, C.B.E. Mr. G. C. Richardson Mr. J. S. Williams
Commissioner of Police for the City of London	Colonel A. E. Young, C.M.G.

Sir John Ferguson, C.B.E.

Sir Ronald Howe, C.V.O., M.C.

Sir John Nott-Bower, K.C.V.O.

Captain A. Popkess, C.B.E.

Colonel T. E. St. Johnston, C.B.E.

Representatives of Police Authorities

The Magistrates' Association	Lord Merthyr, T.D., D.L. Dr. R. M. Jackson Mr. C. Royle, M.P. Brigadier A. C. Willway, C.B., C.B.E. T.D., D.L. Mr. J. F. Madden
County Councils Association	Sir Thomas Bland, T.D., D.L. Mr. H. R. Neate, C.B.E., D.L. Lt.-Col. Sir Herbert Shiner, D.S.O., M.C. Mr. W. L. Dacey Mr. B. Kenyon Mr. W. H. G. Cocks
Association of Municipal Corporations ...	Alderman J. Hoy, M.B.E., D.L. Alderman J. J. Cleary Mr. A. E. Gilfillan Alderman S. Hand Councillor B. S. Langton Councillor A. P. Steele-Perkins, M.C. Sir Harold Banwell Mr. K. P. Poole
Association of County Councils in Scotland	Mr. J. L. Craig Mr. J. McBoyle, C.B.E. Mr. F. Inglis
Scottish Counties of Cities Association ...	Councillor H. A. Brechin, C.B.E. Councillor M. Williamson Councillor T. Creaney Councillor Mrs. I. Carter Councillor G. Roberts Mr. E. G. Glendinning Mr. F. D. Colquhoun
Metropolitan Boroughs' Standing Joint Committee	Alderman G. S. Burden Councillor Group Captain G. H. Pirie, C.B.E. Mr. A. G. Dawtry, M.B.E., T.D. Mr. W. Hayhurst Mr. L. G. Huddy
Berkshire Standing Joint Committee ...	The Hon. D. Smith Mr. E. R. Davies
Essex County Council	Alderman W. J. Bennett, C.B.E., J.P. Mr. C. G. T. Berridge

Hampshire and Isle of Wight Police Authority	Colonel J. B. Scott Captain H. J. Ward Mr. R. Steele Mr. J. H. Martin
Warwickshire Standing Joint Committee	Alderman F. D. Farley Sir Edgar Stephens, C.B.E., D.L.
Wiltshire Standing Joint Committee ...	Sir Charles Chitham, C.I.E. Mr. R. P. Harries
Brighton Watch Committee	Councillor G. B. Baldwin Mr. W. O. Dodd

Mr. T. J. Owen, Town Clerk of Nottingham

Representatives of Legal Associations

Faculty of Advocates	Mr. M. Kissen, Q.C. Mr. J. G. Leechman, Q.C.
Inns of Court Conservative and Unionist Society	Mr. P. Rawlinson, Q.C., M.P. Mr. M. A. L. Cripps, Q.C. Mr. M. Lee Mr. O. Lodge Mr. P. W. Medd, O.B.E.
Justice	Mr. J. Foster, Q.C., M.P. Mr. P. Benenson Mr. A. Grant Mr. T. Kellock
Justices' Clerks Society	Mr. E. L. Bradley Mr. A. J. Chislett Mr. R. L. Hazell
Society of Labour Lawyers	Mr. P. R. Kimber Miss J. Graham-Hall
The Law Society	Mr. A. J. Driver Mr. W. O. Carter Miss J. Littlewood Mr. G. A. Macdonald Mr. A. C. Prothero Mr. E. J. T. Matthews Mrs. J. I. M. Martin

Other Witnesses and Associations

Former Home Secretaries...	The Rt. Hon. Lord Morrison of Lambeth, C.H. The Rt. Hon. J. Chuter Ede, C.H., M.P. The Rt. Hon. Viscount Kilmuir, G.C.V.O. The Rt. Hon. Viscount Tenby, T.D.
Clerk of the House of Commons ...	Sir Edward Fellowes, K.C.B., C.M.G., M.C.
Local Government Commission for England	Mr. M. E. Rowe, C.B.E., Q.C. Mr. H. F. Summers, C.B.
The Bow Group	Mr. M. Ogden Mr. T. Whipham Mr. J. Griffiths
National Council for Civil Liberties ...	Mr. M. B. Purdie Mr. M. Hurwitt Mr. A. Tyrrell Mr. M. Ennals

The Institute of Journalists	Mr. L. Simpson Mr. D. C. Flatley Mr. G. Glenton Mr. S. Nicholson
National Union of Journalists	Bailie M. J. Williamson Mr. P. G. Reid Mr. G. J. Byrne Mr. E. A. R. Lofts Mr. B. A. Pook Mr. J. Venmore-Rowland Mr. T. D. Lucy
The Pedestrians' Association for Road Safety	Mr. A. Carr Mr. L. Hyman Mr. T. C. Foley
Association of Police Surgeons	Dr. R. Hunt Cooke Dr. C. H. Johnson Dr. Molly Cosgrave Dr. W. Fyffe Dorward Dr. R. D. Summers
National Association of Probation Officers	Mr. D. S. McLean Mr. J. McNicol Miss M. D. Samuels Mr. F. Dawtry, M.B.E.
The Institute of Public Relations... ...	Mr. A. Eden-Green Miss J. Blow Mr. A. Cain Mr. J. Sutcliffe Mr. M. Thomas
Standing Joint Committee of the R.A.C., A.A., and R.S.A.C.	Mr. W. Andrews Mr. H. Cecil Orr, O.B.E. Mr. D. R. Greig Mr. A. J. A. Lee Mr. J. B. Izod

Dr. D. McI. Johnson, M.P.
Alderman G. Lagden, M.P.
Professor J. D. B. Mitchell
Professor E. C. S. Wade, Q.C.

APPENDIX II

LIST OF POLICE FORCES AND POLICE ESTABLISHMENTS VISITED BY MEMBERS OF THE COMMISSION

In connection with the Interim Report

County Constabularies

Cornwall
Dumfries and Galloway
East Suffolk
Essex
Fife
Glamorgan
Hertfordshire
Lancashire
Orkney
Oxfordshire
Surrey
West Riding of Yorkshire

City, Borough and Burgh Forces

Birmingham
Bristol
Cambridge
Cardiff
Eastbourne
Edinburgh
Glasgow
Greenock
Leeds
Metropolitan Police
Oldham
Oxford
Paisley
Perth
Plymouth

Police College, Training Centres, Training Schools

Scottish Police College, Tulliallan, Fife
Police Training Centre, Bridgend, Glamorgan
Police Training Centre, Bruche, Warrington, Lancashire
Cadet Training School, Hendon, London
Detective Training School, Hendon, London
Driving Training School, Hendon, London
Recruit Training Centre, Peel House, London

In connection with the Final Report

County Constabularies

Bedfordshire
Cornwall
Dunbartonshire
Kent
Lanarkshire
Lancashire
Mid-Wales
Renfrew and Bute
Scottish North-Eastern Counties

City, Borough and Burgh Forces

Aberdeen
Blackpool
Bootle
Cardiff
Glasgow
Hamilton
Liverpool
Manchester
Plymouth
Salford

The Police College of England and Wales, Bramshill, Hampshire.

APPENDIX III

AUTHORISED ESTABLISHMENTS OF THE POLICE FORCES OF GREAT BRITAIN AND THE POPULATIONS AND AREAS SERVED

ENGLAND AND WALES

Force	Authorised Establishment (at 31st December, 1961)	Population (at 30th June, 1961)	Area (in square miles)
BEDFORDSHIRE	604	384,190	473
BERKSHIRE	467	392,450	710
Reading	221	121,040	14
BUCKINGHAMSHIRE ...	694	491,400	749
CAMBRIDGESHIRE	139	96,190	477
Cambridge	162	94,810	16
CARMARTHENSHIRE AND CARDIGANSHIRE	324	220,010	1,612
CHESHIRE	1,207	982,690	979
Birkenhead	307	141,750	13
Stockport	234	142,080	13
Wallasey	205	103,240	9
CORNWALL	442	335,390	1,357
CUMBERLAND	368	221,460	1,511
Carlisle	115	70,610	10
DENBIGHSHIRE	272	172,500	669
DERBYSHIRE	839	749,430	993
Derby	252	131,790	13
DEVONSHIRE	802	529,780	2,577
Exeter	164	78,570	14
Plymouth	404	212,780	21
DORSET	470	315,580	974
DURHAM	1,574	1,117,940	987
Gateshead	178	103,290	7
South Shields	166	109,350	8
Sunderland	281	189,600	13
ISLE OF ELY	146	89,060	375
ESSEX	1,344	1,120,160	1,417
Southend-on-Sea ...	341	164,620	16

Force	Authorised Establishment (at 31st December, 1961)	Population (at 30th June, 1961)	Area (in square miles)
FLINTSHIRE	204	149,240	256
GLAMORGANSHIRE ...	1,092	743,870	732
Cardiff	462	256,900	23
Merthyr Tydfil ...	118	58,800	28
Swansea...	271	167,390	34
GLOUCESTERSHIRE... ...	772	567,760	1,217
Bristol	894	436,000	41
GWYNEDD	308	208,960	1,505
HAMPSHIRE AND THE ISLE OF WIGHT	1,073	867,560	1,600
Bournemouth	303	149,000	18
Portsmouth	440	227,930	14
Southampton	397	204,000	18
HEREFORDSHIRE	230	130,860	842
HERTFORDSHIRE	899	683,080	575
HUNTINGDONSHIRE ...	123	83,380	366
KENT	1,785	1,195,960	1,440
LANCASHIRE	3,293	2,266,460	1,626
Barrow-in-Furness ...	138	64,710	17
Blackburn	200	105,930	13
Blackpool	310	150,000	13
Bolton	291	160,740	24
Bootle	152	82,680	5
Burnley	153	80,590	7
Liverpool	2,048	745,810	43
Manchester	1,648	660,300	43
Oldham	230	115,280	10
Preston	231	113,170	10
Rochdale	180	85,890	15
St. Helens	218	108,480	14
Salford	353	154,910	8
Southport	183	81,020	15
Warrington	153	75,980	7
Wigan	169	78,910	8
LEICESTERSHIRE AND RUTLAND	637	436,310	957
Leicester	465	273,130	27
LINCOLNSHIRE	820	574,010	2,642
Grimsby	206	96,520	9
Lincoln	154	77,140	12
MID-WALES	213	117,150	2,001
MONMOUTHSHIRE	435	334,420	530
Newport	216	107,780	12

Force	Authorised Establishment (at 31st December, 1961)	Population (at 30th June, 1961)	Area (in square miles)
NORFOLK	504	392,100	2,035
Great Yarmouth ...	111	52,620	6
Norwich	222	119,650	13
NORTHAMPTONSHIRE ...	398	295,850	905
Northampton	170	104,320	10
NORTHUMBERLAND ...	634	480,530	1,994
Newcastle-upon-Tyne ...	569	267,230	17
Tynemouth	129	70,080	7
NOTTINGHAMSHIRE ...	769	593,270	815
Nottingham	655	313,280	29
OXFORDSHIRE	292	205,680	735
Oxford	197	106,410	14
PEMBROKESHIRE	179	93,380	614
PETERBOROUGH	132	75,880	84
SHROPSHIRE	407	301,920	1,346
SOMERSET	653	520,340	1,603
Bath	130	81,550	10
STAFFORDSHIRE	1,355	1,205,150	1,092
Stoke-on-Trent... ...	426	265,800	33
Walsall	196	118,610	14
Wolverhampton ...	258	149,780	14
SUFFOLK, EAST	336	230,870	855
Ipswich	184	117,230	15
SUFFOLK, WEST	212	134,200	611
SURREY	937	651,260	572
SUSSEX, EAST	507	375,250	773
Brighton	327	161,690	22
Eastbourne	128	59,830	17
Hastings	133	66,180	11
SUSSEX, WEST	551	410,930	633
WARWICKSHIRE	725	616,730	873
Birmingham	2,183	1,110,290	80
Coventry	470	305,780	30
WESTMORLAND	105	66,510	789
WILTSHIRE	540	430,120	1,345

Force	Authorised Establishment (at 31st December, 1961)	Population (at 30th June, 1961)	Area (in square miles)
WORCESTERSHIRE	643	443,810	684
Dudley	111	63,600	7
Worcester	127	66,550	10
YORKSHIRE, EAST RIDING	304	224,510	1,150
Kingston-upon-Hull ...	639	300,790	23
YORKSHIRE, NORTH RIDING	649	400,110	2,117
Middlesbrough... ...	304	156,490	11
York	187	104,570	11
YORKSHIRE, WEST RIDING	2,414	1,657,810	2,511
Barnsley	138	74,590	12
Bradford	568	294,210	40
Dewsbury	94	53,020	10
Doncaster	145	85,930	13
Halifax	184	95,980	22
Huddersfield	238	129,910	22
Leeds	895	511,650	63
Rotherham	151	85,440	14
Sheffield...	815	494,650	62
Wakefield	101	60,560	9
CITY OF LONDON... ...	990	4,600	1
METROPOLITAN POLICE	20,683	8,147,150	735
TOTAL	81,293	46,166,000	58,347
SCOTLAND			
ANGUS	157	95,730	855
Dundee	340	182,850	19
ARGYLL	111	60,410	3,110
AYRSHIRE	322	248,510	1,118
Ayr	98	44,600	7
Kilmarnock	89	47,570	6
BERWICK, ROXBURGH AND SELKIRK	147	85,620	1,390
CAITHNESS	41	27,620	686
DUMFRIES AND GALLOWAY	202	145,130	2,460
DUNBARTONSHIRE... ...	317	186,660	241
FIFE	560	322,560	505
INVERNESS-SHIRE	102	53,370	4,206
Inverness	50	29,470	5

Force	Authorised Establishment (at 31st December, 1961)	Population (at 30th June, 1961)	Area (in square miles)
LANARKSHIRE	543	368,700	812
Airdrie	57	33,760	5
Coatbridge	88	54,260	5
Glasgow	2,640	1,056,010	60
Hamilton	79	42,190	5
Motherwell and Wishaw	125	73,190	10
LOTHIANS AND PEEBLES ...	396	272,170	1,049
Edinburgh	1,164	474,060	52
ORKNEY	21	18,640	376
PERTH AND KINROSS ...	138	90,360	2,569
Perth	81	40,890	6
RENFREW AND BUTE ...	300	183,780	427
Greenock	129	74,800	6
Paisley	174	96,230	10
ROSS AND CROMARTY ...	76	57,410	3,090
SCOTTISH NORTH-EASTERN COUNTIES	306	265,470	3,605
Aberdeen	325	185,220	17
STIRLING AND CLACKMANNAN	358	235,680	505
SUTHERLAND	27	13,290	2,028
ZETLAND	18	17,690	550
TOTAL	9,581	5,183,900	29,795
TOTAL FOR GREAT BRITAIN	90,874	51,349,900	88,142

POLICE DISTRICTS
GREAT BRITAIN
Scale : miles
10 0 10 20 30 40 50
SCOTLAND
Police Estab. 9,600
Population 5,184,000
1
2
Police Estab. 5,600
Population 3,524,000
Police Estab. 12,500
Population 6,859,000
3
Police Estab. 9,400
Population 6,079,000
4
Police Estab. 8,700
Population 5,834,000
5
Police Estab. 6,500
Population 4,566,000
8
Police Estab. 4,300
Population 2,761,000
Police Estab. 21,700
Population 8,152,000
9
7
6
Police Estab. 7,300
Population 4,883,000
Police Estab. 5,300
Population 3,508,000

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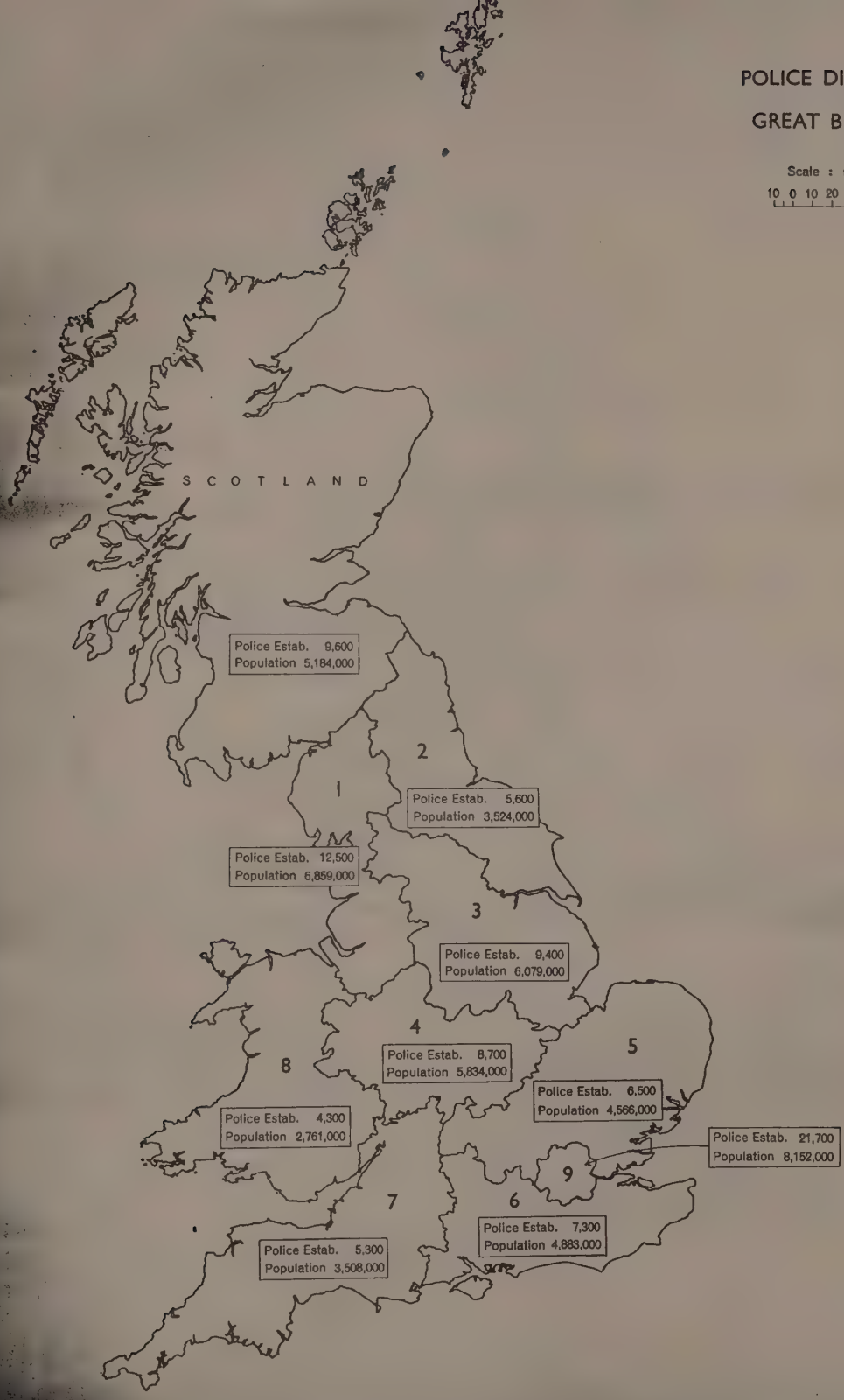
POLICE DISTRICTS

GREAT BRITAIN



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POLICE FORCES
ENGLAND & WALES
Scale : miles
10 5 0 10 20 30 40 50
SCOTLAND
NORTHUMBERLAND
Newcastle-on-Tyne
Tynemouth
South Shields
Gateshead
Sunderland
Carlisle
CUMBERLAND
DURHAM
Middlesbrough
WESTMORLAND
YORKSHIRE NORTH RIDING
Barrow-in-Furness
YORKSHIRE WEST RIDING
York
YORKSHIRE EAST RIDING
Kingston-upon-Hull
Blackpool
Preston
Burnley
Bradford
Leeds
Blackburn
Halifax
Wakefield
Dewsbury
Rochdale
Huddersfield
Southport
Wigan
Bolton
Oldham
Doncaster
Grimsby
St. Helens
Salford
Barnsley
Bootle
Wallasey
Manchester
Rotherham
Stockport
Sheffield
Birkenhead
Liverpool
Warrington
Lincoln
FLINT
CHESHIRE
DERBY
NOTTS.
LINCOLN
DENBIGH
Stoke-on-Trent
Nottingham
FL.
Derby
STAFFORD
NORFOLK
Great Yarmouth
Norwich
SHROPSHIRE
LEICESTER &
Leicester
RUTLAND
Peterborough
Wolverhampton
Walsall
ISLE OF ELY
Dudley
Birmingham
HUNTS
MID.
Coventry
NORTHAMPTON
SUFFOLK WEST
SUFFOLK EAST
WORCESTER
WARWICK
Cambridge
Northampton
CAMBRIDGE
Ipswich
CARDIGAN
WALES
HEREFORD
Worcester
BEDFORD
&
CARMARTHEN
OXFORD
BUCKING HAM
GLOUCESTER
Oxford
HERTFORD
ESSEX
CITY OF LONDON
Merthyr-Tydfil
MONMOUTH
Swansea
Newport
METROPOLITAN POLICE DISTRICT
Southend-on-Sea
GLAMORGAN
Cardiff
Bristol
Reading
BERKSHIRE
Bath
WILTSHIRE
SURREY
KENT
HAMPSHIRE & THE ISLE OF WIGHT
SOMERSET
SUSSEX WEST
SUSSEX EAST
Southampton
Hastings
DEVON
DORSET
Brighton
Eastbourne
Portsmouth
Exeter
Bournemouth
RNWALL
Plymouth

OLICE FORCES

SCOTLAND

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APPENDIX V

PROPOSAL BY THREE COMMISSIONERS FOR THE APPOINTMENT OF A COMMISSIONER OF RIGHTS

This is a modification of the proposal in the report, published by "Justice" in December, 1961, of a committee directed by Sir John Whyatt.(1) The proposal is applied here only to the police. If the Government were at any time to decide to institute an ombudsman for the whole field of public administration then he could absorb the police complaints as well. Meanwhile:

Status. Appointed by the Crown on the advice of the Prime Minister. Scotland could have a separate commissioner, or the same man, as desired. Appointment for life. To be someone of active Q.C. character or a senior solicitor; or possibly a retired permanent secretary. To be well paid.

Duties. To receive complaints from members of the public, Members of Parliament, and others. To examine these complaints (note—examine, not investigate) only if one of two conditions is fulfilled.

1. The Commissioner of Rights must himself consider that there appears to be cause for further examination of a case already decided (or subjected to prolonged delay) by the chief officer concerned or by the Commissioner of Police of the Metropolis. This applies to cases which the complainant or someone on his behalf has previously referred to the chief officer. It is assumed that the chief officer has refused to investigate the complaint, or after investigation has refused to hold disciplinary proceedings, or is alleged to have found improperly in the case. The Commissioner of Rights shall have complete discretion in deciding whether or not to examine any such case.

2. Alternatively, the matter may be brought to the Commissioner of Rights by the Secretary of State or by the police authority. These will mainly be cases where questions have been raised about the general conduct of the police in handling a particular incident or about orders given by senior officers.

Procedure. The Commissioner of Rights will examine the documents submitted to him. He will have the statutory right to call for any further explanation that he may wish from the chief officer, to see any documents in the chief officer's possession or control, to visit any premises that he wishes to examine, and to interview individuals privately or in the presence of others. Normally the documents submitted to him in the first instance will be enough for him to say either that the complaint seems to him to have been handled in a satisfactory fashion or that the investigation or findings appear to be in some respect unsatisfactory. If, however, a complex case is referred to him—particularly if it comes to him from the Secretary of State or from the police authority—he may wish to make his own inquiries on the spot and to interview a number of witnesses. The Commissioner shall have a small staff of his own. He shall also have the right, if and when he wishes, to call for advice from one of H.M. Inspectors of Constabulary.

Reports. The Commissioner of Rights will always publish his findings, as a report to Parliament or to the Secretary of State. He may, if he thinks fit, send further information privately to the Secretary of State, chief constable or police authority. But his findings on every complaint he examines ought to be published. Lest his findings again jeopardise a man who has already been exonerated in disciplinary proceedings, the names of individual officers shall not be mentioned in the Commissioner's report although the force concerned shall be named. Where the case has been referred to the Commissioner by the Secretary of State or by the police

(1) "The Citizen and the Administration: the Redress of Grievances", published for "Justice" by Stevens & Sons.

authority and where it has not previously been investigated, the published findings of the Commissioner shall be limited to one of these—

no cause for criticism;

a minor error of judgment by the officer or officers concerned;

a matter for further disciplinary or court proceedings, or for a tribunal of inquiry.

Gains. The police are no longer left as the final arbiters in cases where their own conduct is in question. The machinery proposed is fairly simple and does not involve serious disturbance of existing arrangements. Time will not be wasted on frivolous or trivial matters, nor will police morale be jeopardised by use of an outside agent for preliminary investigation. No officer will be placed in jeopardy twice. The police will have the satisfaction in many cases of a finding in their favour by the Commissioner of Rights, and the finding will be published. At the same time the public's interest will be better protected than it is at present.

GEDDES OF EPSOM
C. LESLIE HALE
H. A. HETHERINGTON

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CORRIGENDA TO MINUTES OF EVIDENCE

DAYS 11–12

Page 625, paragraph 1, line 5—After "participates." insert "The City of London is also a police authority."

DAY 14

Question 2710, line 3 on page 818—insert "it would, then" between "think" and "it".

DAY 15

Question 2785, line 16 on page 874—delete "not" between "do" and "deny".

Page 875, Question 2797, fourth line from end—delete "from" between "way" and "the".

Page 880, Question 2816, seven lines from end—delete "we" between "which" and "they".

Page 883, Question 2829, line 10—insert "co-ordination" between "develop" and "in".

Question 2848, line 2 on page 886—for "officer" read "officers".

Page 891, Question 2890, sixteen lines from end—for "use" read "us".

DAY 17

Page 1017, Question 3413, line 7—for "balance" read "bounds".

DAY 18

Page 1050, Question 3562, line 12, last word—for "cause" read "case".

Page 1059, Question 3648, last word—for "Sir" read "so".

DAY 20

Page 1178, Question 4136, line 4—for "great" read "greater".

Page 1180, Question 4166, line 12—for "Forces" read "Force".

DAY 25

Page 1357, Question 4903, fourth line from end—for "in" read "and" between "expenses" and "any".

Page 1358, Question 4917, second last word—for "but" read "and".

DAY 26

Question 4968, line 6 on page 1380—for "force" read "authority".

DAY 27

Page 1467, paragraph 3, line 8—for "or" read "of" between "members" and "the".

(32185) Wt. 1434—381 K 96 5/62 St.S.